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This paper contains the views of the Ontario Metis Association on the subject of Northern Resource Development. It is the position of the Ontario Metis Association that the development of northern resources must be carried out in a responsible manner. This paper is being presented to the Royal Commission on Northern Resource Development.

## NORTHERN RESOURCE DEVELOPMENT

### A METIS PERSPECTIVE

PRESENTED TO  
THE ROYAL COMMISSION ON  
THE NORTHERN ENVIRONMENT

BY

THE ONTARIO METIS ASSOCIATION

CONSULTANT'S COMMENTS

The following report addresses the topic of Resource Development, a Metis Perspective.

The development of the report was impeded by a number of factors which have limited the final presentation.

The initial research began addressing resource development through a focus on wild rice. Eventually it was discovered that it was more essential to define a Metis perspective at a more basic level. As a result, the orientation of the report altered dramatically. In its present form, it is our hope that the Commission will gain a level of understanding as to how we, the Metis, view our world in general terms.

Our work on wild rice as a specific issue awaits completion, and will appear in a different form at another time period.

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## INTRODUCTION

This paper represents the summation of the Northern Native Probe. The project developed as a result of a contractual agreement between the Ontario Metis Association and the Royal Commission on the Northern Environment. Our Association agreed to undertake the presentation of a Metis perspective on Native resource management and allocation.

As an end result, we offer a broad over-view of the question. Two specific levels are presented, one of a cultural nature and the other of a legal, rational orientation.

'Oral tradition' as a means of validating interactional disputes is presented at length. It is hoped this will allow this commission and all levels of government to understand and accept a 'formal' process other than that of the 'written word'. A study of the Metis is presented as an example of a typical aboriginal community. A hands on example of how Metis often come to be excluded from the mainstream of either Euro-Canadian or Indian society. Wild rice was chosen as an example to portray the conflict of resource development. The problems in Ardoch are common to all similar communities. Accompanying the written brief is a video presentation on the rice harvest. The format of the film is within our Metis perspective and as such, deviates from the W-5 type productions.

Given the resources and time spent on developing this paper, we feel we have yet to properly address the scope of our concerns. As such, we seek the reader's indulgence in terms of offering only a partial comment on a complex issue.

NORTHERN NATIVE PROBE, A BRIEF HISTORY

Our work began with the filming of the wild rice harvest in Ardoch. Once this process was completed we began to accumulate the background information relating to the community and to relationships to the rice stands of Mud Lake.

To facilitate our first submission, made on November 8, 1982, in Red Lake, we examined the West Patricia Land Use Plan. Input for this submission came from residents of the area as well as the available published material.

From that point we expanded our horizons to prepare an over-view of the resource questions in Northern Ontario. Countless personal interviews were held with both Metis and Indian individuals. As well, we sponsored three meetings including participants from all regions of Northwestern Ontario. Once the process of academic and ethnocentric investigations was complete, preparation began on the final report. Although the Commission is scheduled to be completed as of March 1983, we feel our own investigations are incomplete.

The principal authors of the report are: W. L. Hedican, Peter Lang, John Long, Noel Moore and Meish Podlog. Without their levels of expertise, our presentation would not have been possible.

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## **SECTION 1**

### **THE METIS DEFINITION**

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## THE ROLE OF THE METIS IN THE DECISION MAKING PROCESS

### ORIGIN OF THE METIS

I recently reviewed a Federal Government position paper on aboriginal rights which began describing the history of the Metis in Canada with the arrival of the French in Quebec. The author painted a picture of a people arising from the sexual needs of a group of frustrated sailors and available Indian woman. We are all a bit ethnocentric, the author was a Euro-Canadian and for him our people began with the arrival of his people. Such an attitude fits well with the European notions of founding nations and empires. National pride would dictate believing that women of a hygenic people (Indians bathed daily) would be enarmored by Europeans (bathing was considered unhealthy). To believe otherwise would cast shadows upon European history, as well as forcing a massive number of people to accept the true nature of the situation. The Metis exist as a result of cultural practices already in existence in the Americas.

It has long been the practice of Indian tribes to exchange their favoured sons and daughters. The practice had its genetic base, constantly expanding the gene pool, yet its cultural signifigance was of greater importance. Old rivalries were often subdued, new alliances formed or old alliances strengthened, establishing kinship has always been a means of developing a primary bond amoungst people. The children of these unions were of course the original "Metis". The role they played was quite distinct from that of their parents. In many cases they went forward to form a third tribe.

When the Europeans arrived the practice of bonding tribes by marriage continued. Indians in Canada wedded their daughters to this new group following age old practices. These marriages were initially arranged to form a new alliance, further trade relations, define territories and promote mutual development in a peaceful atmosphere. In the European per-

spective a new entity thus arose which became labeled as Metis.

#### ROLE OF THE METIS

As the children of two "tribes", the Metis are constantly at an advantage. To begin with they are often bilingual, as well as being members of their own distinct culture. The Metis culture developed primarily to fill the need for a professional body to deal with intercultural (sic intertribal) affairs. As a result they constantly surface in the areas of politics and economics.

The economy of the north has generally been controlled by large monopolistic concerns. The Hudsons Bay Co., the Northwest Co., the Reed Paper Company, and so on. The situation hasn't truly changed to any great degree. The Metis have slowly been working to erode these power blocks over a period of time. The H.B.C. began to lose its continental power base due largely to the activities of the Metis. We formed the largest group of free traders, as well as working for the H.B.C. Our activities eventually undermined the colonialist approach to the degree that control of trade and eventually resources transferred into the hands of Canadians.

Unfortunately resource control shifted to the hands of Euro-Canadians, and does not include aboriginal directives. The most recent monopolistic land grab, the agreement of sale between Reed Paper and the Ontario Government is a prime example. Thousands of square miles of land, inhabited solely by aboriginal people, was turned over to Reed. The first group to acquire a copy of the original contract, were the Metis. The temporary halt to this agreement eventually came to pass, largely through the efforts of the Nishnabe-Aski. Unfortunately the ministry responsible for the agreement (the M.N.R.) has not changed. At anytime in the future they can make similar arbitrary decisions.

We believe it is essential to involve Canada's aboriginal people in the decision making process. Not as "advisors to the crown", but truly as the controlling entity of our remaining resources. No new system either political or economic is required. We have within our own culture (of aboriginal people), systems which would accomplish the job of government quite effectively and efficiently.

Our system of consensus democracy operates to create a decision making process which guarantees that the views of individuals be represented, within the context of creating decisions which are "best for all". Within the aboriginal community at large, you will find that the Metis fill most leadership roles. It is within this context that we urge the adoption of our system of government to the question of who is to manage our remaining resources.

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## THE METIS OF '83

For the most part the Metis of the North have been forced into a position of being "squatters" on their own land. Northern communities fall under the jurisdiction of three levels of government; municipal, provincial and (or) federal (reserves). In most cases the Northern Metis are not allowed a "legal" relationship to the government body for their community. As a result we are denied access to many services and rights enjoyed by most Canadians, this exclusion ranges from the right to vote, to simply being unable to access basic services i.e. education, health,etc.

Solving the problem is not insurmountable. It has in fact been done. The community of Collins just west of Armstrong may serve as a prime example. Up until a few years ago Collins was a typical "squatters" community inhabited by Metis and Indian people. As with other communities the only "legally" owned land belonged to the store, the school and the church. The people of the town began to push government agencies and ministries towards accepting their residential patterns as "legal". Eventually the land was surveyed and "private ownership" is now possible, thus satisfying Euro-Canadian standards. At the same time community residents continue occupying the land base according to their own perspectives, thus satisfying our ideas of "communal" ownership.

The community of Moosonee is a prime example of how government ministries are unable to respond to the needs of local people. The town is composed of three segments, a reserve, private lands and squatters. The number of situational examples of a lack of interface are too numerous to list in their entirety. Deciding who pays for a student's seat in school can become a major issue. Attempts to build a co-hesive community have been met by the bungling directives of external agencies. The simple act of building a sewer system runs into cross-responsibilities as a drainage pipe may run from reserve to non reserve land thus changing the

ministry responsible for the laying of the pipe. Houses have been skidded from one location to another to conform with govenment regulations. None of these problems would have required drastic measures to solve had community planning originated at the local level. (sic. self government)

Of greater concern is the usage of land surrounding any community. The Metis assumed they would have to option to hunt and trap according to their needs. At one time such was the case, it unfortunately is not so today. The laws of the land (as applied by the M.N.R.) do not reflect our values. An unemployed Metis could at one time hunt to fill his larder, now he is forced to collect welfare. The only solution is to develop the North utilizing the directives of Metis and Indian people. Any other approach would simply cause current problems to continue adinfinitum.

THE METIS OF MOOSENEEINTRODUCTION

We hear about the Whiteman's fame  
And of the Indian's need  
But seldom do we hear about  
The little known Halfbreed...

Who helped the Whites and Crees to trade  
And learn each other's ways?  
The men of course who spoke their tongue  
And shared the ventures of those days.

The Halfbreed Scotsman, French and Cree  
Who travelled back and forth  
Endured the hardships for the trade  
And goodwill in the North.

A biologically-defined group of "mixed-bloods" was evident in the James Bay region (see Map No. 1) as we shall see, from the late eighteenth century. This group was biologically distinct from (hypothetically) "pure" Cree aborigines and Europeans. In 1905, when Treaty 9 (see Map No. 2) Commissioners visited the west coast of the Bay, some mixed-bloods were accorded Indian status and others, by default, were legally defined as "Metis". The Government of Ontario, as I have shown<sup>2</sup>, faced with a unique but small group of Metis, recognized their aboriginal rights and offered compensation in 1906.

In this report I expand upon the earlier compilation and clarify the implications of the claim. First, I define and describe the Treaty 9 Metis, and outline the economic changes they were experiencing at the turn of the century. Next, I will re-examine the Metis petition of 1905, the offer of Provincial Treasurer Matheson, and speculate on the probable reactions of the Metis to his offer of 160

acres of land. Finally, I will outline developments at Moose Factory since 1905, including the recent "subdivision" and re-iterate that compensation is still due the Metis of Moose Factory.

#### THE METIS DEFINED

The late Gordon Moore, author of the poem above, was himself a descendent of the Metis refused Indian status in 1905 at Moose Factory, Ontario. The term Metis can have racial, cultural, linguistic and legal connotations, so I will define my terms to avoid confusion. The racial view identifies Metis as biologically part Cree and part European; "mixed-bloods" were admitted to Treaty 9 in 1905. I shall refer to the biologically-defined group as "mixed-bloods". A cultural or linguistic distinction implies that the Metis were bicultural and bilingual--the best of both worlds--but this could be true also of mixed-bloods admitted to Treaty. The Treaty 9 Commissioners in fact created the legally-defined status of Metis when they excluded certain Aboriginal people from the provision of the Treaty in 1905. When I speak of Metis, I speak of this legally-defined group.

Certain Aboriginal people were defined by The Indian Act 1880 as "Indian" any male person belonging to a "band", his spouse and offspring. In addition, the male was required to have "Indian blood". A band was defined as a group of Indians who shared lands held in trust by the Crown and/or who shared in monies distributed by the federal government. For our purposes, Indians were (and still are) a legal category. An additional feature of the federal legislation is crucial to understanding the exclusion of the Metis from Treaty No. 9. It was clearly the hope of the legislators that "progressive" Indians would discard the burden of Indian status. Indians who could lead the life of a clergyman, lawyer, or doctor, for example, were automatically assumed to be "civilized"--to have enough character

for integrity, morality and sobriety "to live without the protections and dependencies associated with wasdship. The assumption that "progressive" Indians were not "leading the Indian way of life" must have influenced the Treaty 9 Com-issioners' decision to exclude certain Indians (although, as we shall see, the Metis themselves did not seek Indian status).<sup>3</sup>

Although the British North America Act assigned to the Government of Canada responsibility for "Indians and Lands reserved for Indians", the federal government took the position, at the turn of the twentieth century, that it bore no responsibility for Indians who had not signed a treaty.<sup>4</sup> In other words, the Fathers of Confederation charged Ottawa with looking after all "Indian people"--by which term I encompass both Metis and Indians, of either "pure" or partial aboriginal origin--but the Dominion government subsequently decided to ignore certain Indians without ensuring that the Provinces would accept the leftovers.

#### "MIXED-BLOODS" OF JAMES BAY

In Northern Ontario and Quebec, the Indian People were socio-economically differentiated by the 1890's. At the various trading posts, there were three distinct social classes--officers of the (Hudson Bay) Company, Company servants and the mass of fur harvesters. It is probably safe to assume that all of the fur harvesters were Indians and almost all of these were "pure" Cree, but the Servant group was very mixed in origins. Tables 1 to 4 (p. 31-34) indicate that 82 out of 114, or 72 per cent of Company employees in 1891-1892 had "Hudson Bay" listed as their parish of origin. What does a "Hudson Bay" origin mean? Although it is by no means possible to identify with 100% precision all these people, we can, with varying degrees of certainty, establish that there were both Europeans and aborigines, as well as mixed-

bloods in the Servant class during the last decade of the nineteenth century. A few examples will illustrate.

**Faries:** All descendants of Hugh Faries, formerly a clerk at Rainy Lake for the North-West Company 1804-1806. Hugh's son Walter (born August 8, 1807) had two wives in succession, Jenny Robertson and Hannah Hardisty. According to family legend, Walter traded one wife to a "Big Shot" for 50 Guineas. Walter's son, Patrick, was born in August of 1835; he married Jane Mark, a native girl. Walter's son Joseph eventually moved to Australia. Another son William became boat builder at Fort Albany and William's sons moved to Sault Ste. Marie. A fourth son Richard remained a bachelor at Eastmain. A fifth son Angus, was the father of Archdeacon William Richard Faries (who retired to Port Arthur.)

Patrick, slooper at Fort Albany in 1891-92, was the father of George (a Cooper). George died at the turn of the century and his children William R., James and Jane Faries were admitted into Treaty No.

9.5

**Linklater:** Andrew Linklater was first engaged as a carpenter at Moose Factory in 1784. An Orkneyman, he received sixteen pounds per annum. John Linklater, born in 1800 and referred to as son of a deceased trader, attended school at Fort Albany 1808-1809. Andrew Linklater (Jr.?) was united in marriage, in 1834, to Elizabeth (Betsy) Swanson. "Big Jim" Linklater, born 1832 and a slooper at Fort Albany in 1891-1892, and Benjamin Linklater, born 1824 and an interpreter at Fort Albany 1891-1892, were sons of William Linklater (mariner) and Eleanor Thomas. William, later married to Helena Richards, fathered at least five sons and five daughters. "Big Jim's" son George was deck hand, captain of the sailing barge Atlanta, teamster (dog driver) and mailman, and later, Post Manager of the H.B.C.'s Attawapiskat post. George's son, Robert, was admitted into Treaty No. 9. Robert served as a teamster in the Canadian Forrester Corps in Scotland during World War I. He married an Indian school teacher, and was a skilled mariner and a mailman. Robert's son, Munro, is now Chief of the Moose Band.<sup>6</sup>

**Louttit:** John Louttit, son of the cooper at Churchill, was born in 1797 and died in 1864. He attended school at Eastmain 1809-1810. Samuel Louttit and Helen Lawson, married in 1840, were the parents of Alexander Louttit. Peter Louttit, cooper at Fort Albany 1891-1892, must have been born about 1834. Edward, blacksmith at Fort George 1891-1892, was born around 1845. David Louttit, cooper at Great Whale River 1891-1892, was born near 1850.

Peter Louttit's sons William and Peter Jr. (the latter a blacksmith at Fort Albany 1891-1892) were admitted to Treaty 9, but James (a Labourer at English River 1891-1892) was excluded. The Indian-status Louttits maintain today that the Metis Louttits from Fort George are not related to them.<sup>7</sup>

**McLeod:** Alexander McLeod, a Scot, married Jane Turner at Moose Factory on November 11th, 1854. The couple returned to Scotland where their first six children were born. About 1867, they returned to James Bay, whereupon Alexander was sent to New Post. Seven children were born to them in Canada, the first (William) on October 13, 1868. William (see Photograph No. 1) married a mixed-blood woman (whose grandfather came from England); he joined the H.B.C. at age thirteen and became a joiner (carpenter) at Moose Factory. Other McLeods who lived at Moose Factory were William's older brother George (a boat builder 1891-1892) and two sisters. William's children included Herbert F., Thomas Robert.

The McLeods of Rupert House, probably descendants of Kenneth McLeod (Blacksmith 1891-1892), were eventually given Indian status; the Metis McLeods of Moose Factory do not consider themselves related to them.<sup>8</sup>

**Moore:** Margaret Moore, born 1799 and daughter of the Canoe Builder at Moose Factory, attended school at Eastmain 1808-1810. A daughter of George Moore Sr., she married Thomas Richards. Her sister Mary was born in 1802 and later married Joseph Gladman. A brother, George Moore Jr., was born in 1796 at New Brunswick House. George Moore Sr. and Mary Truthwaite were the parents of at least five other sons and one daughter. George Jr. married Emma Good in 1841 and raised six daughters and two sons.

Today there are considered to be two separate branches of this family. George Moore, steward at Moose Factory 1891-1892 and later captain of the steamer Inenew, was married to Emma Morrison. They had three sons: James, later a mate on the Inenew, who married Jane McLeod; Tom, deck hand on the Inenew, who married Jesse Fraser and later Beatrice Mark; and William Moore, the youngest, born in 1897.

William Moore, blacksmith at Rupert House 1891-1892 and later at Moose Factory (see Photograph No. 2) was one of the authors of the petition of 1905. He was born in Latchford, where his own father had been employed in the service of the H. B. C. Williams son Tom marries a Cree woman and raised a large family which included Harry F. Moore. (see Photograph No. 3)<sup>9</sup>

Wesley: On July 27th, 1842 the Wesleyan Methodist Missionary George Barnley baptised four Cree Indians. One, named Samuel, was described as the thirteen-year old son of Maude King. His eighteen-year old brother was named Mahlahtastakan (baptised Charles Wesley). A twenty-year old couple, Wapunew-oetum and Shkwashesh, were baptised John Wesley Sr. and Susannah Wesley. The couple was married by Barnley; both were illiterate. If the Wesleys serving the H.B.C. in 1891-92 are descendants of John and Susannah or Charles, they may be "pure" Cree.<sup>10</sup> This speculation relies on the admittedly imprecise assumption that the Indians who had no Christian name and no European surname also had no European ancestry.

Clearly the Linklaters, Faries, Moores, Louttits and McLeods can be identified as mixed-bloods even though their origins are listed as "Hudson Bay". The Wesleys, admitted to Treaty #9, may be "pure" Cree. Other servants, their origins clearly stated as European, were obviously non-Indians--though many of their children were mixed-bloods. Norman McDonald, Scottish labourer at Moose Factory 1891-1892, died in 1889 leaving a "country-born" (i.e. born in the Bay) servant son. Similarly John Macauley, an Orcadian, died in 1889 leaving "a wife and three children to mourn his loss". Most wives were mixed-bloods, for it is remarked at the death of Captain John Taylor's wife Jane in 1887 that "She was the first European woman who has ever died in the whole of South Moosonee (Diocese)."<sup>11</sup> Although some European wives might well have died elsewhere in retirement, the Company had not encouraged domestic relations in its early years.<sup>12</sup> Only after 1800 are there birth and baptismal records--initially in the form of declarations such as John Thomas Sr.'s. Beginning "John Thomas Senr. declares that he has the following children" the entry goes on to list six daughters and three sons.<sup>13</sup> One daughter, Eleanor, married William Richards--himself the mixed-blood grandson of British surgeon William Richards Sr. who entered the Company's service in 1757.<sup>14</sup> Many "marriages" were not solemnized before the arrival of missionary Barnley in 1840. In the absence of clergymen,

couples were occasionally "united by mutual contract", "united by written contract", "joined by civil contract", or--more often---simply married in the "custom of the Country". The James Bay mixed-bloods shared moments of joy and sorrow. They witnessed each other's weddings, after 1840, and the baptism of each other's children; they suffered the loss of their children during epidemics of "hooping cough" and influenza. And, not surprisingly, they intermarried in turn with local Europeans, mixed-bloods and aborigines.<sup>15</sup>

THE JAMES BAY ECONOMY AT THE TURN OF THE CENTURY

The years following 1870, when Rupert's Land was acquired by Canada, were difficult ones for the fur harvesters of James Bay. During the winter of 1890-1891, for example, the coastal Cree near Moose Factory and Rupert House were reported to be "in a state of semi-starvation".<sup>16</sup> The cyclical decline of hares--a major food source for the Indians--combined with a shortage of beaver--needed for both food and trade--resulted in a desperate plight for the Indians. A few years later the situation worsened, judging from a report from Rupert House, and many Indians facing starvation "had to eat their Furs".<sup>17</sup> During these years of privation the Government of Canada was prompted by such reports from the H.B.C. to provide funds "for the relief of extreme cases of destitution among these Indians", but cautioned the Company that "the greatest care should be used in the expenditure of this money, so that the Indians will not be inclined to call for aid again too readily".<sup>18</sup> H.B.C. Commissioner Clarence Chipman later reported that \$513.51 in government relief had been disbursed at Moose Factory and \$153.76 at Rupert House.<sup>19</sup> This financial support, in an area "outside treaty limits", was an exception to the Dominion government's general neglect of James Bay Indians prior to the signing of Treaty #9 in 1905. The H.B.C., itself facing economic problems in the James Bay region, welcomed this involvement.

These were difficult years for the Company, particularly in the James Bay region. Joseph Fortesque, Officer in Charge at Moose Factory, reported on the activities of rival fur traders and the unsettling effects of competition on the Indians.<sup>20</sup> He suggested that the well-established "credit" system of advancing supplies to the Indians in summer be discontinued in the face of the

"extortion" techniques they had developed, "threatening to leave us, in case their wants were not granted", and urged the Company to "discontinue the debt system entirely, here and everywhere in the Department where there is frontier contract".<sup>21</sup> To meet the threat of competing traders a small winter trading post, tended by a Company servant, was established in 1890 at Long Portage House, 80 miles inland from Moose Factory.<sup>22</sup>

Chipman, in 1892, reported that the James Bay District needed "considerable reorganization and good management before its real value to the Company will be apparent". He attributed this poor financial situation in part to the effects of the transcontinental railroad completed in 1885, since some posts were more economically supplied by rail than by ship from Britain. But the main cause of "reduced Gains" was simply "diminishing Returns...with increasing Expenses", rather than "higher prices paid for furs".<sup>23</sup>

A report on sea transport in James Bay, in 1900-1901, revealed the high cost of the Department's inefficient system of trans-shipping and landing supplies at Moose Factory. Silting of the Moose River hindered the movement of schooners. As serious a problem was the maintenance of a large staff of Company servants. To unload some six hundred tons of supplies from the annual supply vessel and reload the barque with furs and ballast within a three-week period required up to eighty men, two scows and a steam tug. In addition, schooners were required to transport the supplies to Fort Albany, Rupert House and Eastmain. At Moose Factory the result of maintaining "this shiptime gang" was "a permanent staff twice as large as could be justified at any other season of the year".<sup>24</sup> Company employees and their families constituted nearly one-third of the population at Moose Factory.<sup>25</sup> To remedy this costly situation, a pier and warehouse were built at Charlton Island and a steamer was purchased to replace the schooners. The steamer Inenew would require fewer skilled

men, whereas two crews of skilled sailors were required by the Mink and the Marten. A depot at Charlton Island and a steamer would together ensure good "prospects of continued success in this richest corner of the fur country" and also free some \$25,000 annually, thus permitting an "increase of no less than 100 per cent in the prices, which will be more than called for on any appearance of opposition".<sup>26</sup>

Revillon Freres fur traders, disparagingly called the "Revelling Friars" by Company men, began to penetrate the Moose Factory region after the turn of the century.<sup>27</sup> Initially the "Opposition" was established "about the forks of the Moose and Abitibi Rivers", but by the spring of 1903 were located near Moose Factory at the mouth of Butler's Creek (see Map No. 3).<sup>28</sup> Revillon Freres hired the 820 ton vessel Eldorado to transport some 1,450 tons of cargo to James Bay in 1903. The Eldorado, drawing some sixteen feet of water, ran aground and was wrecked near Fort George. The crew was transported to Charlton Island, where they hoped to obtain passage on the H.B.C. supply ship Lady Head. The latter vessel had already departed, however, and itself was wrecked on the Gasket Shoals, so the Opposition was forced to travel overland to Montreal via New Liskeard. Undeterred, Revillon Freres established a depot at Strutton Island and by 1908 had five trading posts in James Bay--near Fort George, Rupert House, Moose Factory, Fort Albany and Attawapiskat.<sup>29</sup>

To summarize conditions at Treaty time in 1905, two points should be noted: (1) the Hudson's Bay Company was streamlining its James Bay posts and (2) rival fur traders were established at Butler's Creek (near present-day Moosonee).

#### MATHESON'S OFFER

Treaty Commissioners Scott, Stewart and MacMartin arrived at Moose Factory on August 8th, 1905. At this place but at no other that is recorded, they excluded certain Indian

people from Treaty 9, "on the grounds that they were not living the Indian mode of life".<sup>30</sup> These individuals were not excluded simply because they were mixed-bloods, since Scott and Stewart state elsewhere that "at Albany and Moose Factory . . . there is a small resident population of Half Breeds, i.e., mixed bloods, some of whom are classed as Indians" (emphasis added).<sup>31</sup>

Faced with this rejection, five Moose Factory Metis petitioned the Ontario government for compensation.<sup>32</sup> Their petition was not entrusted to Treaty Commissioner George MacMartin, who represented the province. Rather, it was delivered by Scott and Stewart to the Indian Affairs Department in Ottawa; for the federal government, as I argued on p.3, was ultimately responsible for ensuring that and "left-over" Indians were looked after. Typically, neither government was courteous enough to reply to the petitioners directly.

The Ontario government, on receiving the petition (forwarded from Ottawa) betrayed its total ignorance concerning the Metis.<sup>33</sup> To complicate matters further there had been a change of government in 1905. George Ross's Liberal government was soundly defeated and the Conservatives, led by James Whitney took office. A handful of Metis did not rank highly on the provincial government's priority list but eventually, pressed by the Indian Affairs Department, Provincial Treasurer Matheson decided "to allow these half-breeds, the number estimated not being over fifty, 160 acres of land reserving minerals" with two stipulations. First, the land had to be "selected in the District in which they at present reside". Second, the plots were "not to interfere with Hudson's Bay posts, or Indian Reserves, or lands to be required for railway purposes or for town sites". Although this offer was meaningless, as we shall see, to the petitioners (if in fact they learned of it), Matheson's letter clearly recognized "that the (Ontario) Government (was) prepared to give them reasonable consideration of their claims".<sup>34</sup> At this point one might argue that the

federal government had fulfilled its obligations to the Metis, but to settle the matter the province's offer now had to be relayed to James Bay--and here documentation tapers off and speculation begins.

The Ontario government had no agents residing in the James Bay region and, instead of responding by mail directly to the petitioners, chose the Indian Affairs Department to deliver the information. From 1906 until 1926 (when a resident R.C.M.P. constable was posted in Moose Factory) the only regular government agents to visit the area were members of the annual Treaty Party--a doctor, an Indian Affairs Department "Inspector" or "Paying Officer" (whose duties included paying annuities to the Indians) and one or more R.C.M.P. constables (who guarded the loot). Accordingly, Treaty 9 Inspector J. G. Ramsden was instructed, in 1906 and again in 1909, to inform the Moose Factory Metis of Matheson's offer.<sup>35</sup> In 1907 the Anglican Bishop of Moosonee George Holmes, wrote the Indian Department to request that Metis students be admitted as grant-earning students to the boarding school at Moose Factory. Familiar with the situation of the Metis elsewhere, he wrote:

So far the half-breeds have received no consideration such as they have in the North West Territories. It does not therefore seem unreasonable that the Govt should provide the necessary means for the secular (!) education of their children.

Holmes was dutifully informed of Matheson's offer.<sup>36</sup> The Bishop's letter is significant because, although he was mostly interested in filling the school with its quota of Indians and in obtaining sufficient funds for the mission operation at Moose Factory, he did propose an alternative to Matheson's offer which was more in tune with the needs of the James Bay Metis then and now. Likewise Kenora Indian Agent R. S. McKenzie was advised in 1910 that James Louttit was eligible to receive "160 acres of land at Moose Factory, which land will be allotted to him when the survey is made by the Ontario Government" (emphasis added).<sup>37</sup> Thus, a

third stipulation was apparently attached to the offer. Surveyor James S. Dobie, who surveyed the Indian reserves in 1912, makes no mention in his reports of any enquiries about Metis land grants.<sup>38</sup>

Ramsden was a man of integrity, well liked by the Indians of Ontario. Born in Thornhill on July 3, 1867, he was an ardent agriculturalist, and Ramsden Park in Toronto (on Yonge Street north of Davenport) was named in his honour. When he died on December 28, 1948, J.G. Ramsden was known as the "Watchdog of the Treasury". He had a long and successful career in Toronto municipal politics.<sup>39</sup> One of Ramsden's daughters, Mrs. Stanley Lamb, was born August 18, 1906 in Toronto. She recalls that Ramsden was made an honorary chief one year by the Iroquois and named Te Ha Na Gre Kon; in Cayuga, "He who travels everywhere".<sup>40</sup> Her father must have had a strong constitution (having been poisoned on a visit to Manitoulin Island) and must have respected the Indian people he worked with. Proof of the latter is provided by the following Cape Croker Indian Band Council Resolution dated April 3, 1907:

Moved by S. Elliott and J.W. Keeshig

We the Band in Council wish to show our appreciation to the Indian Inspector Mr. Ramsden for being here in the medst of us holding a Council showing us what interest he takes in our affairs. We feel that we have a friend who will defend our interests.<sup>41</sup>

Ramsden was in an ideal position to provide liaison with the Ontario government for although he was employed by the federal government, he resided in Toronto. He wanted to finish his 1906 visit to Hudson Bay in time to be in Toronto for the birth of his daughter, but surely Ramsden relayed Matheson's offer to the Moose Factory Metis

in 1906. Certainly by 1909 the Inspector was familiar enough with the issues to state that "This land would be of little use to" James Louttit.<sup>42</sup>

Unfortunately, some key records have not survived namely Matheson's papers and the H.B.C. Post Journal for Moose Factory from May 28, 1904 through to 1912. The 1903-1908 Correspondence Books Inward from Moose Factory consist mainly of accounts. There is a series of H. B. C. Commissioner Chipman's correspondence relating to Treaty No. 9, but it does not mention the James Bay Metis. However, Chipman was cognizant of Metis rights as this comment indicates:

TREATY NO. 9  
Half-breed Scrip

. . . The basis of the claim is that while the Indian and Half-breed rights differ in degree they are coexistent and should be extinguished concurrently, and if the Government failed to extinguish the Half-breed's rights when any territory was ceded by the Indians they should be held to exist until such time as the Government took action for their extinguishment.<sup>43</sup>

With the exception of a few isolated pockets of suitable soil situated near river deltas, the territory on the west coast of James Bay was hardly a homesteader's dream. Naturalist Fred Bodsworth described this area as a "drowned and sodden land . . . a great shallow stagnant sea".<sup>44</sup> When Dobi surveyed the Indian reserve at Fort Albany he complained of this wetness. When surveying the Moose Factory Indians' reserve (see Indian Reserve 68 on Map No.3) he wrote "I found the country to be so wet that it was impossible to work in it".<sup>45</sup>

The petitioners lived on Moose Factory Island (see Photograph N. 4). The Deed of Surrender whereby Rupert's Land was admitted into the Dominion of Canada provided that the Hudson's Bay Company retain, among other blocks of land, 100 acres at Moose Factory. As late as 1895 the Company only occupied some 70 acres, enough for only six Metis families--and adjacent to a H.B.C. post.<sup>46</sup> Clearly Matheson's land grants could not be located here. The mainland opposite the north channel of the Moose River was occupied by Revillon Freres, and would prove to be the future site of a railroad and town. What other arable land was available? Most of the surrounding area was subject to occasional spring floods and poorly drained at best--all of it less than 100 feet above sea level. In 1914 the principal of Moose Factory's residential school requested (to no avail) that the Department of Indian Affairs obtain "a quarter section; i.e., 160 acres, on 'Ha(y)zey Island'" for farm instruction. He stated, "This Island is the only land near enough to our present buildings to be useful for that purpose". It was probably the only island close enough for the Metis as well.

This island (see Map No. 3), which erosion has reduced considerably since 1914, would only be large enough to provide two Metis families with 160 acres of land.<sup>47</sup>

No Company servant could seriously consider clearing bush land and occupying it. A servant's contract required that he "perform all such work and services, by day and by night, for the Company, as he shall be required and directed to perform by the officers thereof". Lest there be any misunderstanding, the contract further stated "he will diligently and faithfully devote his whole time and attention to their work and service; not engage nor be concerned in any trade or employment whatsoever except for the benefit of the said Company".<sup>48</sup>

Clearly, Matheson's offer of 160 acres of land was a useless one--as Ransden and Bishop Hoomes indicate. There

was no such land available and, if there had been, no working man could occupy it. Moreover, since the H.B.C. provided board and lodging to employees they didn't need land so long as they remained in the Company's employ.

#### THE METIS' REACTIONS

Herbert F. McLeod and Harry F. Moore, two descendants of authors of the petition, have no recollection of Matheson's offer ever being discussed by their fathers. William R. Faries (who is a stepson of Peter Louttit--brother of the Metis James Louttit) claims to have first learned of the land offer from a William Allan, and Indian who enfranchised before 1914.<sup>49</sup> Apparently Allan and others (named Iserhoff<sup>50</sup> and Hunter (see Table No. 27) enfranchised--opted out of Indian status--after Revillon Freres became established in the Bay and employment conditions improved. (This strongly suggests that many others besides the petitioners might have been refused Indian status if the Treaty Commissioners had arrived just a few years later.) Allan's father, William Sr., was a Scot married to Peter Louttit's sister. William Faries recalls that Allan was told of the land offer by Ramsden's successor, Paymaster McLean. Allan and others at Fort Albany, including Iserhoff and Hunter, were the first to enfranchise--all were Company servants. Surveyor James S. Dobie told Faries in 1912 that anyone who built a house 16' by 20' and occupied it for six months was entitled to the land.

The years 1895-1905, according to William Faries, were years of great movement for James Bay mixed-blood servants. His own family had started to move from Moose Factory to Montizambert near the turn of the Century, but returned about 1900 because his grandmother missed Moose Factory. The grandmother's maiden name was Jane Mark; she had lost four or five children at Fort Albany, and wanted to be buried near them. Willie's mother was Mary Wesley, a Cree woman. Her husband George, a Cooper, died in 1900

and the family, now headed by Peter Louttit, was admitted into Treaty 9 in 1905. William suspects that his father would not have wanted Indian status.

William remebers that others--named Faries, Linklater and Carpenter--had previously moved to Montizambert. The Hudson's Bay Company's "streamlining" of operations may well have led to a reduction in staff. Faries recalls that some twenty-five families were laid off about 1900-1901. Bob King (married to a Faries), Norman Macdonald (Jr?), and others named Simpson, Ellson and Paulson moved to North Temiskaming and settled there; William lived there himself from 1914 to 1916. Others, like William Etherington, William Louttit, Gus Udgaarden James Louttit, departed upriver to seek employment. When Revillon Freres arrived in the Bay, William Etherington and William Louttit were rehired by the H.B.C. at Fort Albany, and Gus Udgaarden was hired by Revillon Freres at Butler's Creek. Others who departed from Fort Albany were Benjamin Linklater's sons Joseph and George, Joseph and Peter Morrison, and John Louttit. Many mised bloods may have departed permanently from the James Bay region prior to 1905.51

The Metis petition of 1905 was signed by five men but J. G. Mowat, officer in charge of Moose Factory, stated that they represented "various absentees at Charlton /Island/ and on H.B.C. vessels".52 Two circumstances may have resulted in the absence of more men than usual. First, construction of the peir and warehouse at Charlton was lost in 1903.53 William Faries suggested that a number of Metis were still building the warehouse in the summer of 1905. Second, the H.B.C. supply vessel Stork had been beset by ice while attempting to leave Hudson Bay in 1904 and was forced to winter at Charlton Island until her departure August 9, 1905. (The Treaty No. 9 Commissioners visited Moose Factory from August 8 to August 12). A second supply ship, the Discovery was anchored at Charlton in 1905 from August 27 until September 8. The stevedores and sailors

must have been busy.<sup>54</sup>

How did the petitioners react to Matheson's offer? We know there were two responses. First, William Archibald wanted Indian status by 1909, perhaps as a symbol of his Indian identity, but also for the protections and guarantees of Indian status. He was insistent and was eventually admitted into Treaty 9. Archibald became the Anglican mission's "outside man" and Cree catechist. This suggests he did not have a contract with the H.B.C. and no doubt treaty annuities and rations were a source of security for his family. One of Archibald's brothers was admitted to Treaty 9 at New Post while a second sibling, second engineer on the Inenew, was excluded.<sup>55</sup>

A second response characterized the McLeods and William Moore (Morrison died in 1906) and perhaps others like George Moore, the Millers, Taylors and Udgaardens.<sup>56</sup> They probably wanted money scrip--this was the usual response elsewhere.<sup>57</sup> They, like James Louttit, would have no use at all for 160 acres of land. Each servant family had a small plot sufficient to grow potatoes and other vegetables. Early in the twentieth century anyone--Indian, Metis or non-Native--could hunt, trap and fish nearby in any season. If they simply did not want 160 acres of land, they may have resigned themselves to this injustice in the same way that Gordon Moore adjusted to his blindness:<sup>58</sup>

The sun still shines,  
However dark the day.

...

And night is there,  
When all the world seems wrong.  
And right will win,  
Although the dark be long.

Little did they know that they would be subjected to the restrictions of game laws--fixing their "possession"

limit and forbidding them to hunt the spring geese, for example--in later years. Herbert McLeod is probably typical of most Metis when he recalls, "I thought Treaty was just some money they gave the Indians".

By not receiving money scrip, these Metis missed a short spending spree.<sup>59</sup> They were proud to be Indian and proud (see Photograph No. 5) to be Company men--not a new combination to be sure but, with the advent of the treaty these Metis became more sharply differentiated from their Indian neighbours not in racial terms, but in ethnic identity. Like the Indians, they enjoyed "country food", spoke Cree and were proud of their aboriginal roots. Unlike most Indians, these men were financially rather comfortable and had the limited security of a contract (which could be cancelled at the Company's option). Three families were kept in the Hudson's Bay Company's employ following the purge of 1900-1901: blacksmith William Moore, carpenter William A. McLeod and his brother George, a shipwright. As servants they were guaranteed not only wages but rather generous food rations. Herbert McLeod recalls shopping for his family's ration each Saturday--his father, like other Company servants had to work until 3:00 on Saturdays. A servant who was newlywed would receive a simple ration, families of five to six (like Herbert's) a ration-and-a-half, and larger families of ten to twelve got a double ration. The ration consisted of 10 pounds of flour, 5 pounds of salt pork, 5 pounds of beef, 8 pounds sugar, 1 pound tea, 5 pounds oatmeal, rice and tallow; for a ration-and-a-half or a double ration the quantities were encremented accordingly. The only necessity that had to be purchased was coal oil. Shoppers were allowed substitutions in their ration--for example if they had plenty of sugar one week, Herbert's mother might instruct him to get extra flour. These men realized they were dependent on their employer when they wrote in their petition "Should the fur traders at any time not require our services we should be obliged to support ourselves by hunting". Unlike the Indians, who now looked increasingly to the Union Jack, the Crown, the federal government and the R.C.M.P.,

these Metis looked more and more mainly to Britain and the Company for support and employment, and for models upon which to pattern their cultural and social life.<sup>60</sup>

For the Metis petitioners, with the exception of Archibald, and probably for those they represented, Indian status was not their goal. Having been "born and brought up in the country" they considered themselves "unfit to obtain a livelihood in the civilized world", yet they probably would have thought Indian status a stigma to be avoided. James Louttit wrote "I prefer scrip to Treat".<sup>61</sup>

#### MOOSE FACTORY TODAY

The H.B.C.'s exclusive claim to the island of Moose Factory has gradually been eroded voluntarily. With the arrival of the railroad in 1931, a relatively self-sufficient labour-intensive farming community was no longer required. No longer did the Company need barns, a dairy, a slaughter house, hay fields, potato fields or grazing land.<sup>62</sup> Neither did the Anglican church authorities, who possessed a sizeable portion of the island by now and who also operated a farm. Moose Factory declined in importance until the end of World War Two, since the headquarters of the H.B.C. headquarters were removed from there to Winnipeg. Supply ships from London or Montreal were no longer needed, for rail transport was more efficient. Charlton Island depot was abandoned. By 1935 the changes had brought unemployment and destitution to the Moose Factory Indians.<sup>63</sup> Coopers, blacksmiths and cattle keepers were no longer needed. By now the descendants of William Moore had departed from Moose Factory. Another victim of the 1930's was Revillon Freres. In 1936 the Opposition was sold to the H.B.C., the latter having purchased fifty-one percent of its stock ten years before.<sup>64</sup>

After 1945, Moose Factory experienced a "boom" period. A 200-bed federal hospital was constructed on the island and

a large portion of the island (see Factory Island IR 1 on Map No. 3) was set aside as a new Indian reserve--since the hospital became a major source of employment, and the Indians increasingly became village dwellers. To make way for the reserve, the area formerly occupied by Company servants (see Photograph No. 4) had to be cleared; Herbert F. McLeod is one who moved his father's house from the "reserve" to its present site. By now the H.B.C. possessed only a small portion of Moose Factory Island.

In the 1970's the H.B.C. and the Diocese of Moosonee asked the provincial government to arrange the transfer of a portion of their land at Moose Factory to the individuals who until 1978 had rented from either the Company or the Diocese. Although the offer seems generous, it was prompted as much to avoid survey and title transfer costs as to benefit the local tenants--not to extinguish land claims. The tenants purchased their lots outright from the Province for the sum of \$200.00, a nominal amount to offset the costs of survey and transfer.

Did the purchase of these lots from the Province fulfill Matheson's standing offer? The answer is clearly "No", since Metis, enfranchised (non-status) Indians and Non-Indians alike were allowed to purchase these small house lots.

Andrew Morrison died in 1906; his daughter married the widower William McLeod. (see Photograph No. 6) 65 Descendents of the McLeods still reside in Moose Factory, as do descendents of the others they represented; e.g., George Moore's descendents, the Taylors, Millers and Udgaardens. They, and countless other Metis (including William Moore's descendents) who departed from James Bay before or since 1905, are entitled to some kind of compensation which suits their present needs. I have suggested two alternatives to 160 acres of land, namely educational benefits and hunting rights, but in the end it is the Metis

themselves who must decide what compensation (if any) is required.

Obviously a great deal of geneological research would be required to trace the roots of these Metis and to follow their many branches up to the present. This report is not exhaustive; it has only indicated the potential of such an approach.

#### SUMMARY

The Metis of Moose Factory, a legally defined group, began to negotiate with the Province of Ontario in 1905. The Province, recognizing their aboriginal title, offered each family 160 acres of land. The Metis had no choice but to decline this offer. Negotiations have been postponed for some seventy years--not surprising when one considers that the Metis were accustomed, as an employment contract indicates, to absolute subservience in their relations with superiors. No compensation has been made to the Metis of Moose Factory and, it might be argued, they still retain their aboriginal rights. Only the Metis themselves can define how this process of negotiations should be renewed. Though the specific outcome cannot be predicted at this time, Inspector Ramsden's remarks made seventy years ago still ring true:

The half-breed question at Moose will have  
to be dealt with.66

REFERENCES

- (1) Gordon Moore, Poems of James Bay, Cobalt, Ontario Highway Book Shop, 1977.
- (2) John S. Long, Treaty No. 9: The Half-Breed Question 1902-1910, Cobalt: Highway Book Shop, 1977. In this booklet I quoted extensively from the Treaty 9 Correspondence PAC RG 10 v.3033 file 235, 225-1 and v.3093 file 289, 300. The present report takes a different approach by analyzing the situation in some detail and trying to make some sense of the material.
- (3) 43 Victoria (1880) Cap. 28 (Canada). An Act to Amend and Consolidate the Laws Respecting Indians. Reprinted in Derek G. Smith, Canadian Indians and the Law: Selected Documents 1663-1972, Toronto: McClelland & Stewart, 1975, p. 118-149.
- (4) Peter A. Cumming & Neil H. Mickenberg, Native Rights in Canada, Second Edition, Toronto : General Publishing Co., 1972, pp. 203-204.
- (5) Provincial Archives of Ontario (PAO), Moose Factory Mission Church records, Ms161 reel 1; Charles M. Gates, ed., Five Fur Traders of the Northwest; conversations with W.R. Faries; Tables 1 & 2.
- (6) E.E. Rich, ed., Moose Fort Journals 783-85, London: Hudson's Bay Record Society, 1954, p. 73 PAO, op. cit.; Tables 1 & 5 W.R. Faries, "The Linklaters as told by George Himself", Moosetalk, April 1978, p. 6.
- (7) PAO, op. cit., Tables 2, 4&5,
- (8) PAO, op. cit., Table 1, conversations with Herbert F. McLeod.
- (9) PAO, op. cit., Tables 1, 3 & 5; Bay News, March 1958, p.4; "Resident Reminiscences", Moosetalk, December 1977; conversations with Harry Moore.
- (10) PAO, op. cit.
- (11) Ibid.
- (12) E.E. Rich, "The Colony of Rupert's Land", The Beaver 309.1, Summer 1978, pp.4-12; Jennifer Brown, "A Colony of Very Useful Hands", The Beaver 307.4, Spring 1977, pp. 39-45.
- (13) PAO, op. cit.

(14) Alice M. Johnson, "James Bay ARTist William Richards" The Beaver 298, Summer 1967, pp. 4-10. It was William's brother who married Margaret Moore.

(15) PAO, op. cit. There were exceptions of course. Bert Morrison, now of Moose Factory, states that his grandfather had to travel to Winnipeg for a bride. Bert and his wife (nee Moar, See Table 5) consider themselves non-Indians-- their parents would have been fired by the H.B.C. had they married Indian women. Bert may turn out to be related to petitioner Andrew Morrison, though no relationship is known at the present time. Conversations December 6, 1978.

(16) Fortesque to Chipman, 15 September 1891, HBCA B.135/e/31/f.4

(17) Excerpt in Chipman to Reed, 18 December 1894, HBCA A.12/FT 243/l/f.5

(18) Reed to Chipman, 26 December 1894, HBCA A.12/FT 243/l/f.6.

(19) Chipman to Ware, 19 January 1867, HBCA A12/FT 243 1/f.20. Besides pre-Treaty relief payments, the federal government also provided day school grants prior to 1905. John S. Long, "Education in the James Bay Region During the Horden Years", Ontario History 70.2, June 1978, pp. 75-89.

(20) Fortesque to Chipman, 15 December 1891, HBCA B. 135/e/31/f.14.

(21) Ibid.

(22) Ibid., f.20; Broughton to Chipman, 31 December 1895, HBCA B. 135/e/32/f.1-2. In fact this credit system was discontinued in 1930. Canada, Report of the Royal Canadian Mounted Police 1930, Sessional Papers, Ottawa: Queen's Printer, p. 104.

(23) Chipman to Armit, 14 January 1892, HBCA B.135/e/31/f.2-3.

(24) HBCA B.135/e/33/f.7.

(25) Ibid., f. 7-8.

(26) Ibid., f. 11-12.

(27) The nickname is mentioned by Mrs. Mai Jackman in her 4 page mimeographed reminiscences "For my grandchildren".

(28) Chipman to Ware, 3 July 1903, quoting a report from Moose Factory dated 3 July 1903, HBCA A.12/FT 217/2/f.19.

(29) L.F.S. Upton, "The Wreck of the Eldorado", The Beaver 229, Autumn 1968, pp. 27-31; Alan Cooke & Clive Holland, The Exploration of Northern Canada, 1500 to 1920: A Chronology, Toronto: Arctic History Press, 1978, pp. 294, 297; "Revillon Freres Trading Company Limited" 17 page brochure distributed by Ontario Ministry of Natural Resources.

(30) Pedly to Matheson, 21 November 1905, PAC RG 10,v.3093 file 289, 950.

(31) D.C. Scotte & S. Stewart, "Education, Treaty 9", PAC RG 10 v.3093 file 289, 300.

(32) Copy found in PAC RG 10 v.3093 file 289, 300.

(33) A confused Provincial Treasurer sent the petition back to Ottawa. The Indian Affairs Department returned it, explaining the Province's responsibilities and the merit of the claim.

(34) PAC RG 10 v.3093 file 289, 300.

(35) McLean to Ramsden, 2 May 2906, PAC RG 10 v.3097 file 297, 171; McLeanto Ramsden, 20 September 1909, PAC RG 10 v.3903 file 289, 300.

(36) Holmes to McLean, 11 February 1906, and Secretary to Holmes, 26 February 1906, PAC RG 10 v.467-1 part. 1. Holmes had previously interceded, together with other clergymen, to support the Metis of Lesser Slave Lake in their demands for control of their children's scrip in 1899. See "Report of Half-Breed Commissioners (James Walker and J. Arthur Cote)" Ontario Sessional Papers 1900, No. 13, pp. 3-9.

(37) Stewart to McKenzie, 29 January 1910, PAC RG 10, v.3093 file 289, 300.

(38) PAC RG 10 v.3105 file 309, 350-3. The first post-Confederation survey of the island was done by Ontario Land Surveyor Mac- Donald for the federal government in 1889. He states that Haysey Island has 355 acres and (Moose) Factory Island 1189 acres. A marine survey, sounding the channels of the Moose River from Moose Factory to James Bay, was conducted about 1916. In 1923 the region was surveyed by the Province, following explorations in 1905 and 1911, in expectation of the railroad's extension. This survey noted that Factory Island comprised 1170 acres. The Anglican mission land was surveyed in 1931, the same year the Temiskaming and Northern Ontario Railway finally reached Moosonee.

Another survey, in 1951, partitioned the island to allow for the new Indian reserve, federal schools (purchased from Anglican Church officials) and the new hospital. The purchase of school land was delayed by restrictions in the Church's deed from the H.B.C. forbidding sale of the land (and also prohibiting any business or trade). Albert Tucker, Steam Into Wilderness: Ontario Northland Railway 1902-1962, Toronto: Fitzhenry & Whiteside, 1978, pp. 87, 94; Office of Land Titles, District of Cochrane, Certificates of Search as to Titles for Parcels 1653 (.54 acres) and 1652 (113.14 acres) in the register for North East Chochrane, copies found in PAC RG v.6203 file 467-5 Part 3; Ontario Ministry of Government Services.

(39) Toronto Municipal Handbood 1903-1936; Toronto Globe 20 August 1932 and Obituary 29 December 1948.

(40) Personal communication with Mrs. Bertha Lamb (nee Ramsden) 24 October 1977.

(41) PAC RG v. 3097 file 297, 171.

(42) Ramsden to McLean, 15 December 1909, PAC RG 10 v.3093 file 289, 300.

(43) Chipman to Ware, 2 June 1899, HBCA A.12/FT 243/l/f.88-89.

(44) Fred Bodsworth, The Sparrow's Fall, Garden City, N.Y.: Doubleday, 1967, pp. 32-33.

(45) Dobie to McLean, 20 October 1912, PAC RG 10 v.3105 file 309 350.3.

(46) Hartwell Bowsfield, ed., The Letters Of Charles John Brydges, 1879-1882, Hudson's Bay Company Land Commissioner (Winnipeg: Hudson's Bay Record Society, 1977) p. 294; "Ground Plan of Moose Factory, 1895" HBCA B.135/e/32/fos. 5d,6 reproduced in part and with minor errata following p. 32 in Long, Treaty No. 9, op. cit.

(47) Haythornwaite to Department, 5 January 1914, PAC RG 10 v.6203 file 467-1 part 1.

(48) See photocopy of William Moore's contract following p. 34. Contract in possession of Herbert F. McLeod.

(49) Much of the following information was told to me in various conversations with Messrs. Herbert F. McLeod, Harry F. Moore and W.R. "Willie" Faries.

(50) See Table No. 3. The Iserhoffs are mixed-blood descendants of a shipwrecked Russian sailor. J.W. Anderson, Fur Trader's Story, Toronto: Ryerson, 1961, p. 118 ff.

(51) In the same way, many "Moose Factory Cree" were admitted to Treaty No. 9 at Chapleau and given a reserve of 160 acres. The James Bay Treaty: Treaty No. 9, Ottawa: Queen's Printer 1964, p. 18.

(52) Comments appended to the petition, op. cit. W.R. Faries recalls that Mowat was himself a mixed blood.

(53) Moose Factory Post Journal entries dated 14 July, 3 August and 10 August 1903. HBCA B.135/a/189/fos. 71, 73, 74.

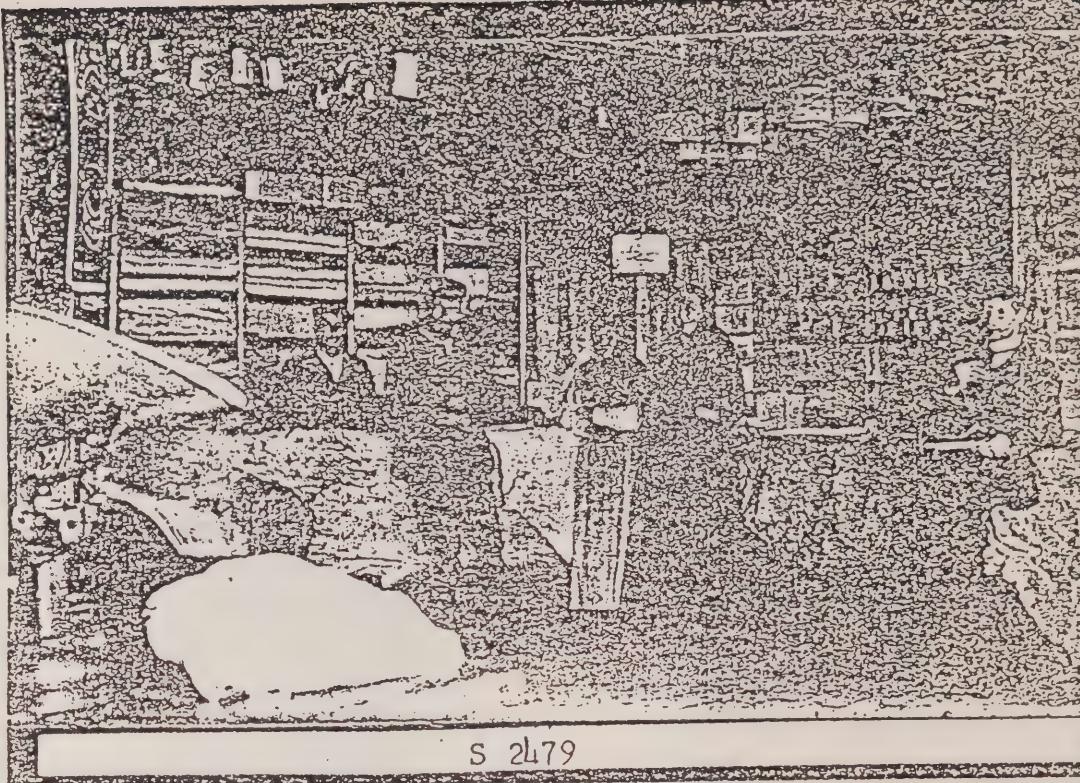
(54) Cooke & Holland, Exploration op. cit., pp. 301-302.

(55) The brothers were named David Wynne and Tom Taylor. Their mother, named Wynne, was Peter Louttit's wife's sister.

(56) William Miller, married to a mixed-blood, was "keeper" of the Charlton Island depot. The Udgaarten surname has since been Anglicized to "Gunner".

(57) Ninety-nine percent of the North West Metis received cash scrips in 1899, often to avoid the stigma of an inferior Indian status. Morris Zaslow, The Opening of the Canadian North, 1870-1914, Toronto: McClelland & Stewart, 1971, p.225.

- (58) Moore, Poems, op. cit.
- (59) Zaslow, op. cit., pp. 225-226.
- (60) Brown, "Colony", op. cit., p. 45.
- (61) Quotations are from their petition, op. cit. Louttit's letter to McKenzie, 5 December 1909, PAC RG 10 v.3093 f. 289, 300.
- (62) See "Ground Plan of Moose Factory, 1895", op. cit.
- (63) Caption on photograph in PAC RG 10 v.3034 file 235, 225.
- (64) "Revillon Freres Trading Company Limited", op. cit.
- (65) Morrison was married to Emily Swanson (see Table No. 1). One of their daughters, Frances, married McLeod. The second daughter, Nellie, moved to Cochrane in 1920.
- (66) Ramsden to McLean, 8 September 1909, PAC RG 10 v.3093 file 289, 300.
- (67) HBCA B.135/q/74/.
- (68) Ibid.
- (69) Ibid.
- (70) Ibid.
- (71) K.G.Davis, ed., Northern Quebec and Labrador Journals and Correspondence 1819-35, London: Hudson's Bay Record Society, 1963, p. 342.
- (72) Brown, "Colony", op. cit., p. 44.

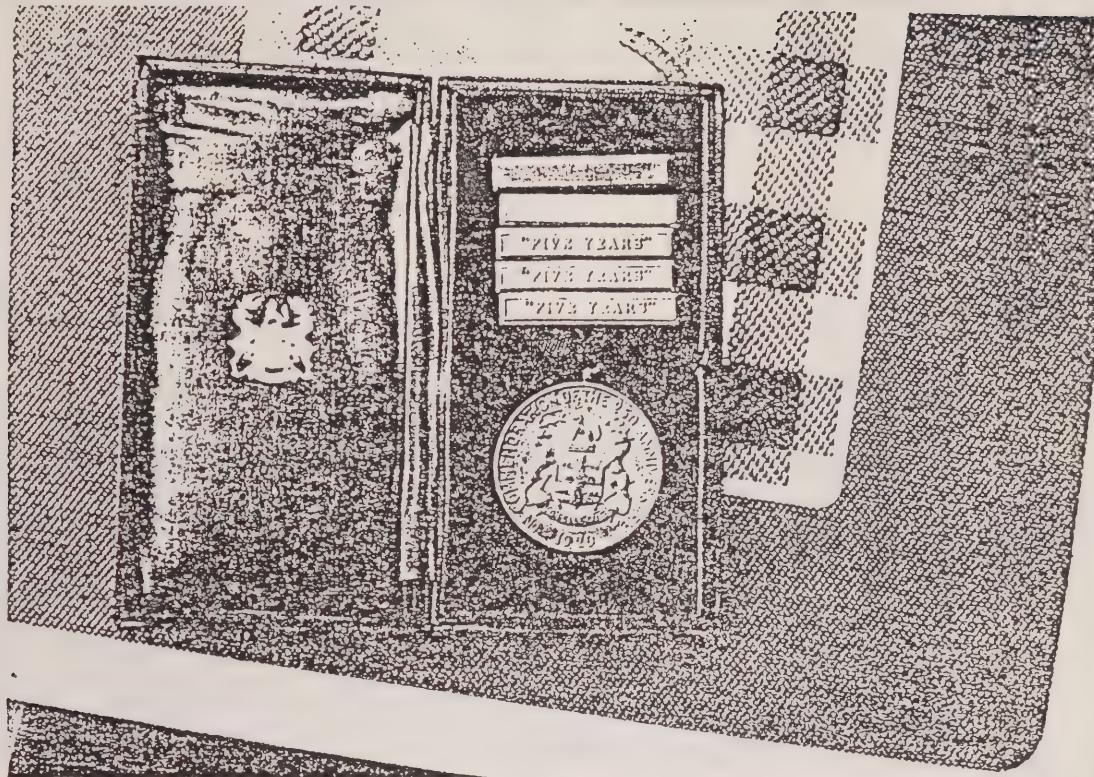


PHOTOGRAPH NO. 6

H.B.C. store, Moose Factory. The woman  
is Mrs. Emily Morrison (nee Swanson) and  
the girl is one of her daughters.

Ontario Archives photograph Ref: S 2479

Mrs. Morrison identified by Herbert McLeod.



PHOTOGRAPH NO. 5

The late William Moore's service medal.

Medal in possession of Mr. Harry Moore.

Photographed by John S. Long



PHOTOGRAPH NO. 4

H.B.C. Servants' Homes: left foreground William McLeod's residence, moving right in the foreground is a "double house" occupied by Mrs. Andrew Morrison and by David Wesley, James Moore's home, George McLeod, Tom Taylor, Alfred Chum, James Mark, Harvey Smallboy, Tom Sutherland, Angus Chum, James Louttit, and finally Caleb & Simon Cheena's dwelling.

Ontario Archives photograph ref: S 11335

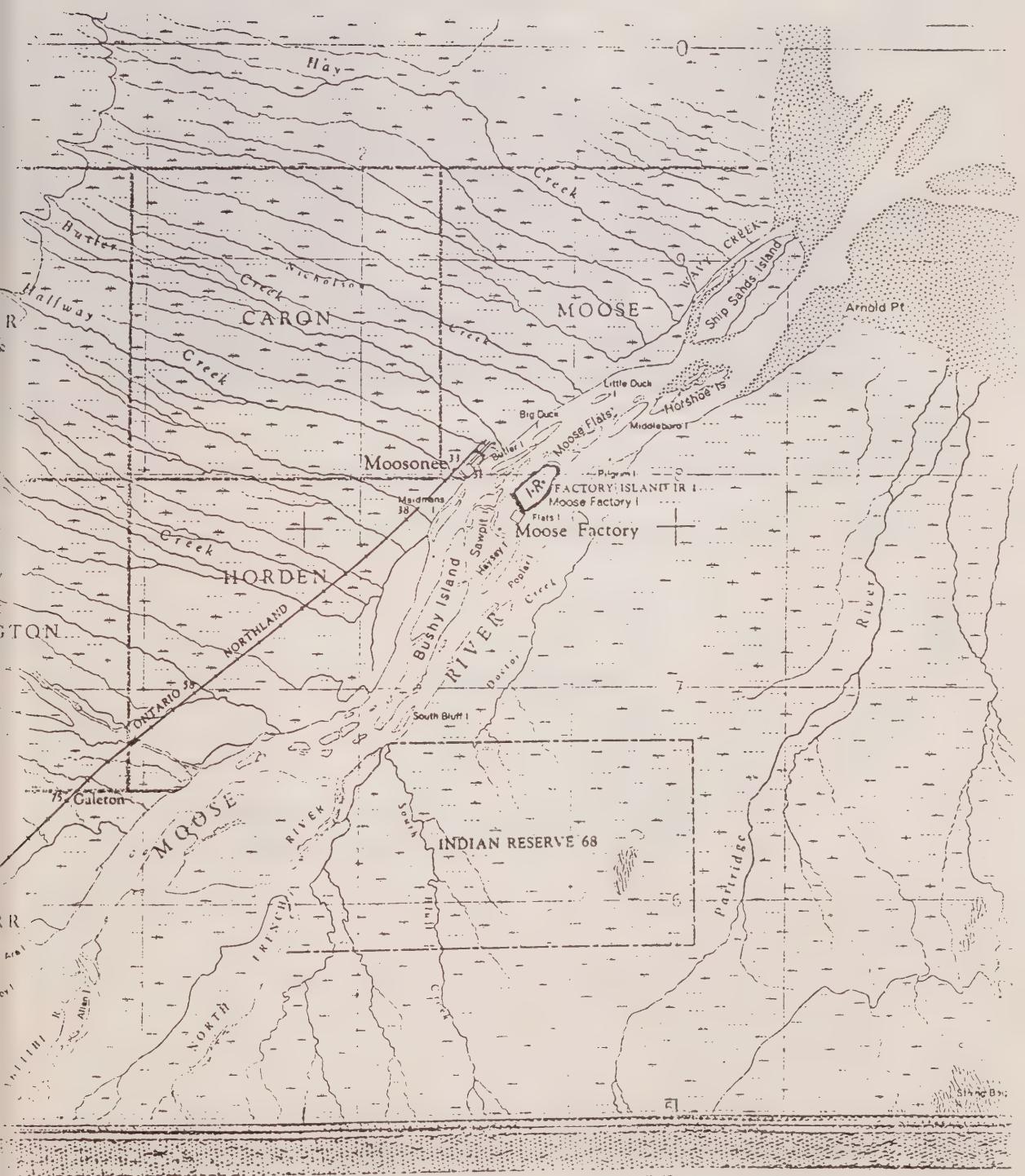
Houses identified by Mr. Herbert F. McLeod.

(The James Louttit is not the man mentioned in the report)

Map No. 3 1965 Topographical Map (Survey & Mapping Branch,  
Department of Mines & Technical Surveys, Ottawa)

Scale 1:250,000

Contour Interval 100 feet



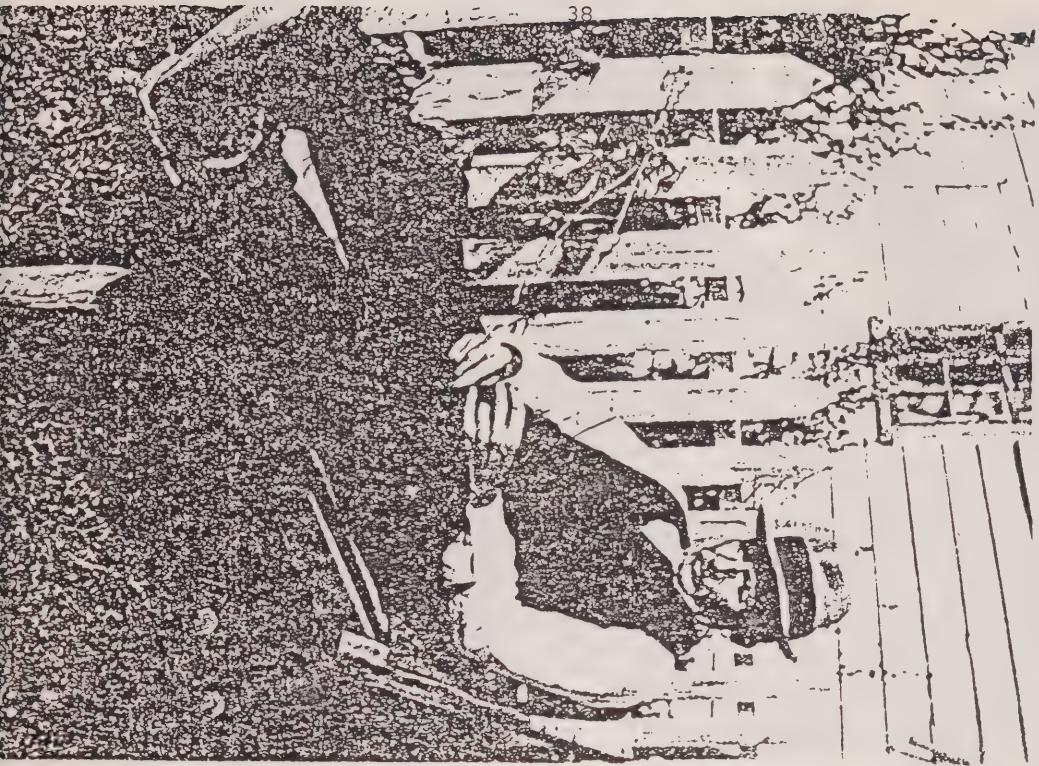


PHOTOGRAPH NO. 3

Three generations: Mr. & Mrs. William Moore (left rear), Mr. & Mrs. Tom Moore and children.

Photograph supplied by Mr. Harry Moore

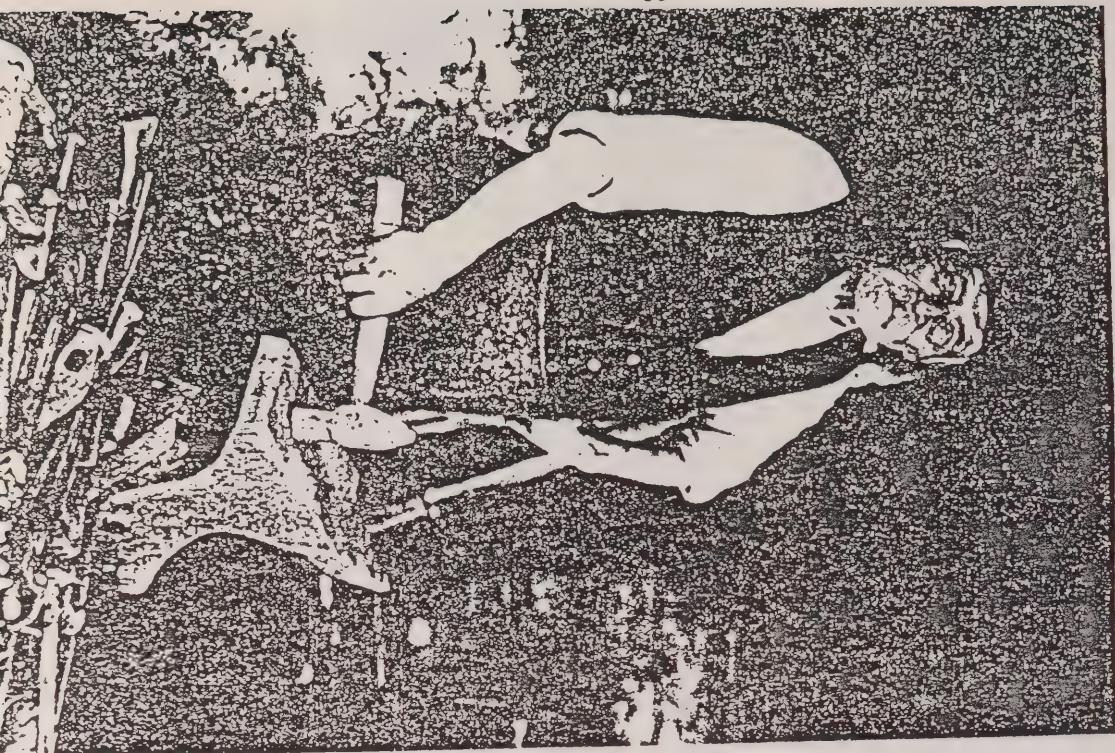
(I believe Harry stands centre rear to the left of Tom. The picture would have been taken c. 1925)



PHOTOGRAPH NO. 1

William Moore    c. 1926

Photograph supplied by  
Mr. Herbert F. McLeod



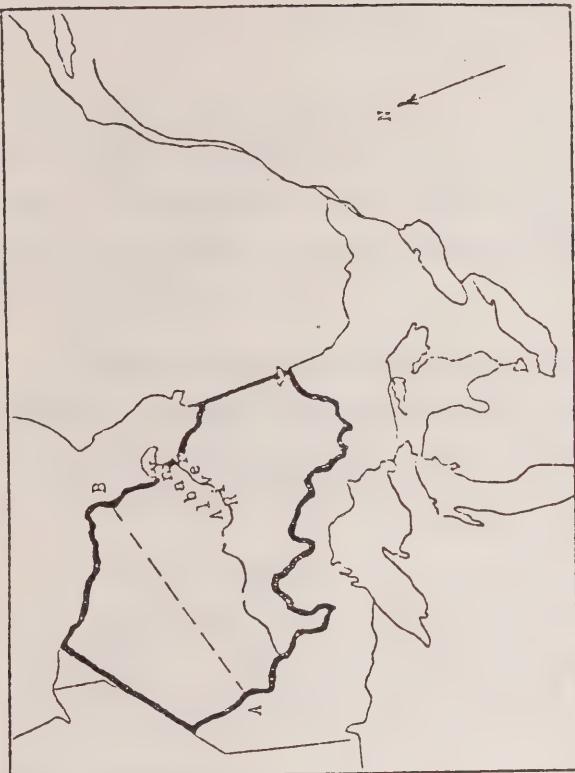
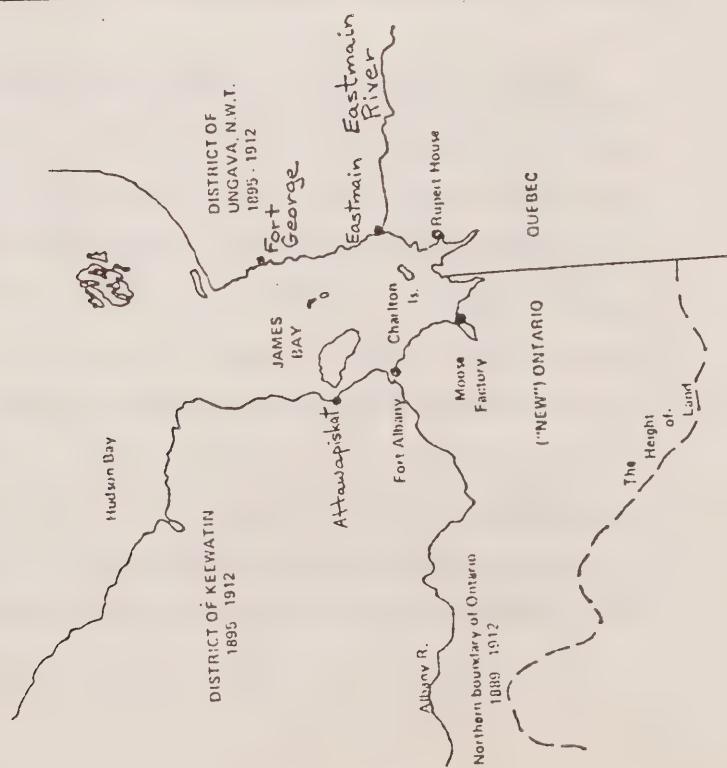
PHOTOGRAPH NO. 2

William Moore at the forge

Photograph supplied by

Mr. Harry F. Moore

Map No. 1 (Below); Map No. 2 (Right)



A heavy line indicates that portion of Ontario included in the Treaty 9 region. The meandering broken line indicates the Ontario boundary in 1905-6, while the straight broken line represents the line AB.

The Treaty Commissioners obtained a surrender of both regions to the south and east of line AB in 1905-6. Until Ontario's boundaries were extended in 1912, the Dominion assumed the cost of annuities of Indians in the middle region. The Adhesion of 1929-30 confirmed the cession of the middle area, and admitted to treaty the Indians north and west of AB.

RESOURCE DEVELOPMENTA. CULTURAL PERSPECTIVE

we are one with the land.

how often have we attempted to convey the significance of this fact to our Euro-Canadian neighbours? How often have we failed? Often, far too often! We don't feel that our failure is a result of our inability to communicate. It is simply the result of one culture's inability to grasp a concept alien to their own.

None the less, we continue to try to explain. We are a culture with a humanitarium base. As a result, we feel that it is in the best interests of all parties concerned to seek a means of having our ideas understood.

Up until a few hundred years ago, we managed the resources of this continent. Our ancestors were not savages living at the mercy of the elements as portrayed in your history. Quite the opposite was true.

In terms of technology, we were better equipped to deal with the elements than were most of the world's inhabitants. Technological advance was a constant, our people were not stagnant. Recent studies show we were probably the world's first metallurgists. Each time any western person sits down to eat, they consume products developed by our agriculturists. Our methods of hygiene and medicine altered European techniques, saving thousands of lives. Had we not developed to such a degree, Europeans would quite probably not have been able to survive their initial invasion of the Americas.

We had the technology to deal with this world in a variety of ways. We could have stripped the forests of their trees, the animals for their furs, as did eventually happen to most of North America. The resources and people were here, we were established traders. Our

Assinaboine culture spanned the continent. The by-products of our lives were found around the world. So why did we do it? We didn't strip our environment because the ethics and morals of our society had also developed to a highly sophisticated degree. As a group, we became one with the land.

It would be best to explain this concept in an ethnological sense, utilizing cultural comparisons. Such an exercise would be extensive and beyond our purposes. As a result, we will share a minor portion of the perspective, as it relates to the resource issue.

European philosophy dictates that there is order to the universe, this order is directed by god. In turn, this god assigns the task of ordering the affairs of the earth to a country's primary ruler (i.e., Queen of England, President of the United States of America, etc.) Citizens are in turn empowered to conduct their affairs under the direction of the resultant subauthorities of the head of state. This chain of command establishes two significant perspectives; ownership of the land and its resources, and the right to direct the affairs of anyone who is not a member of the chain.

The Native world operates on a different premise. There is indeed order to the universe, but not created through any external power. We are basically a monotheistic people, but our god is not a ruler, rather he is a participant in the process of development. As a people, we serve a similar role. We are not directors of the universe, but members of it. Because of man's nature, we are the custodians of the land and its resources.

This of course sets up a direct clash which is the source of our current and historical dilemma. Euro-Canadians feel they own the land and can utilize it for their own benefit. We in turn, as custodians, feel it must be treated in a manner which would benefit the entire eco-system. It has been aptly demonstrated that the European philosophy has made quite a mess of things. Now you're telling us that this last corner of the universe in which we live be turned over entirely to your designs. Are you truly so insane as to turn the last blue waters to

brown, the last green trees to stumps, to condemn the last animals and fish to death. Recent history has shown this to be the case. For in your eyes you own all of which we speak.

WILD RICE

There is but one plant. Wild rice, which has not yet been totally utilized. Now that its economic potential is realized, you're working towards 'total ownership'! Perhaps by examining wild rice, we might portray our beliefs to you.

Cultural Significance

Wild rice, (*Zizaniopsis Miliacea* L.): A tall aquatic American perennial grass plant.

Well it's not rice, it is in fact a grain. And it's not wild, it is in fact a cultivated crop. The Indians of North America are well known for their agrarian pursuits. Although the crops they developed are too numerous to mention. Most people are aware of a few of those grown in soil, potatoes and corn are probably the best known. Less is known of the crops resulting from aquaculture. After reading Cortes descriptions of the floating gardens of Teotihuacan, a city of 300,000 at its peak, one gains a feeling for the sophisticated technology employed for food production on this continent. It's not surprising to discover that the rice in Northern Ontario was originally planted here. Native people returned to this area some 7,000 years ago, following the retreating glaciers. The rice was brought along. Since then, some of the rice has gone wild, as does grain along the borders of the farmer's field. For the most part, it is here because it has been continuously cultivated.

Manomin - an Ojibwa word meaning 'delicacy of the great spirit'. Once you've tasted it you know what we are talking about, at least in part, for wild rice is not just food for us. As a matter of fact for us the nutritional qualities of the rice are of a secondary nature. What is of importance is how we express our beliefs concerning our relationship to the entire eco-system as expressed through the rice harvest.

When our people returned to North Western Ontario, they brought the rice with them. They planted along the routes they travelled and close to their main fall camping grounds. This entire process has changed very little in the last few thousand years. Our people who reside in the woods still take a little rice along to seed new beds as required. If you are looking for a rice field, simply study native land usage maps. You will find if growing conditions are favourable, that where native people are, or have been, is also where rice is or has been.

Wild rice is basically a non-competitive plant. It does not harm aquatic life in any way, it will grow alongside other plants, yet will not 'crowd out' any other plant. As such, it suits our perspectives ideally. By planting, we enrich the environment without detriment to any of the eco-systems.

Our traditional harvesting techniques constantly enrich the rice stands. Rice stands must be picked each day as the kernels ripen. The root systems are seldom disturbed, leaving the soil and water undisturbed. There is enough spillage to ensure ample reseeding for the next harvesting. The new plants in turn will aerate the soil, feed the ducks, and in turn feed our people.

Once the rice is picked, it must be soaked and cleaned. As this happens the 'rice worms' leave and swim to shore. It happens that they are a delicacy for the fish. As the children line the shore, they bring forth a bountiful harvest of fish. Thus a balanced diet is ensured with a minimum of effort.

Neither age nor sex are barriers to participating in the entire process. Every step requires co-operation, there must be two people picking, one to paddle, and the other to pick. When drying, fires must be tended while others 'dance' the rice in huge cast iron pots. Along side will be other family members spreading the chaff to the wind. A few will be bagging the rice for storage. Always there will be people walking around eating 'pop rice' which looks like popcorn but with a flavour all of its own.

The last day is the day of celebration. A feast is prepared of rice, fish, and wild game, all products of the land. At one time even the bannock was made from flour ground from the rice. The dancing begins, generally with those dances of eons ago. The music reproduces the sounds created by the harvest. The rattles and soft drum strokes, duplicate the sounds of thrashing and harvesting. Later in the day, the newer dances begin, the square dancing and the Red River jigs.

It all sounds a little idyllic, and it is. In this world, we all share, it is a time of reprise. Through the harvest of the rice we pass on our culture. All factions of our society come together to share. Through our treatment of the rice harvest, we teach our values and respect for all resources. Traditional rice harvests are the last means by which Indian and Metis people may, as a group, pass on these values.

SECTION 2

ARDOCH

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## INTRODUCTION

In 1978 the Ontario Government, inspired by the Royal Commission on the Northern Environment, called a halt to the non-Indian Commercial development of wild rice in this province. The ensuing 5 year moratorium was aptly timed--not merely to cool a rising controversy between aboriginal people and Commercial developers of the crop, but in face of this controversy, to avoid a political scandal.

A year before the moratorium, the Minister of Natural Resources, Leo Bernier, claiming that wild rice was an "undeveloped natural resource" had attempted to revise the Wild Rice Act.<sup>1</sup>

In order to stimulate economic development he proposed lifting restrictions on areas historically allocated to Indians through Treaty negotiations. He also proposed to give Ontario developers first rights to buy the rice harvested here.

Bernier's proposals were rejected by Indians who by these changes were threatened with the loss of another traditionally recognized resource. But the potential scandal stemmed from the fact that his own political campaign manager, Benjamin Ratuski, under the Company name of Shoal Lake Wild Rice Ltd., was the only Commercial developer of any size in the area.<sup>2</sup> Vulnerable, and with an election pending, it was expedient for the government to declare a moratorium.

The moratorium also gave business and government an opportunity to re-think strategies in order to tie-up the resource more effectively in the long run--for the real issue in the wild rice controversy is economic exploitation. As with hunting, fishing, and trapping, one resource after another has been taken from the aboriginal peoples when economics warranted it.

In the last 2 decades market demand for wild rice has brought prices as high as \$20.00 per pound, and Commercial interests are scrambling to reap the rice harvest. With lucrative rice harvesting and processing companies in Manitoba, Saskatchewan, and Minnesota, Ontario businessmen don't want to miss an opportunity.<sup>3</sup> As before, it is the government's historic role to acquire the resource on their behalf, by manipulating majority public opinion and legislating the necessary changes.

The story of Ardoch clearly illustrates the government's complicity in its attempts to allocate a traditional Indian resource to Commercial developers. Though Ardoch is in South-east Ontario, well below the 50th parallel, its story is relevant in light of wild rice policy for the whole province, particularly in the Treaty 3 blocks where the resource is most abundant and most sought after.<sup>4</sup> In Ardoch, a history of government deceit, broken promises, and overt militarism has left scars which will be slow to heal.

However, in Ardoch there can also be seen the shared respect for a resource, and the mutual respect of the three cultures who harvest it--which is surely necessary for a successful resolution to the controversy.

## THE STORY OF ARDOCH

### HARVEST OF '79

In 1979 the Ministry of Natural Resources granted a permit to Lanark Wild Rice Co. to harvest in Frontenac County. Less cynical people might have said that the left hand of government didn't know what the right hand was doing.<sup>5</sup> After all, a moratorium on the Commercial development of wild rice in Ontario had been declared in 1978. More likely, the move was a calculated attempt to gauge Indian emity and public opinion.

M.N.R.'s excuse in granting the permit was that L.W.R.C. already had been harvesting Commercially in neighboring Lanark County. However, the invaded territory which is on MudLake near Ardoch, had been planted, maintained, and harvested traditionally for over 100 years.

The unique group of status Indians, Metis and local settlers who had peacefully harvested the area for so long had no Commercial aspirations. In the way of their forefathers, they harvested by canoe, allowing any remaining seed to repland for future generations. As a gift from the Creator to the Indians, Manomin (wild rice), was respected and cherished. None was wasted, and though the beds were bountiful, there was none to sell.

If the planting and long term maintenance of the wild rice at Ardoch wasn't criteria for ownership, then, what was? No one asked the people of Ardoch for a share of the crop. With no prior notification, and with the 'first ever' permit to harvest on Mud Lake, Lenark Wild Rice Company took the entire harvest of '79.

## REACTION

Somewhat after-the-fact, the MNR from the district office at Tweed called a public meeting at Ompah to determine local peoples' wishes concerning land use. Under consideration was a plan to raise water levels in the Mississippi River system for more recreational use.<sup>6</sup> More than 100 people turned out, clearly rejecting higher water levels which would have flooded their rice, and demanding no further intrusions of commercial harvesters on Mud Lake.

The following summer, LWRC's request for a harvest permit was denied. LWRC appealed, resulting in a formal hearing at Sharbot Lake, July 24, 1980. Local people received only 5 days notification. For the first time the moratorium was mentioned as an issue. If their traditional harvest rights weren't recognized, at least the moratorium should be honoured.

## A SHORT-LIVED RESOLUTION

In August, on the basis of the moratorium, M.N.R. Deputy Minister Reynolds decided in favour of the people of Ardoch. The judgement in this case is a credit to M.N.R. Not only that, but the harvest permit granted to Harold Perry is a welcome precedent. Perry, whose grandmother originally planted the stand at Mud Lake is a Metis, a People whose Indian origins are most often ignored by government when dealing with aboriginal rights.<sup>7</sup>

As a result of Reynolds' enlightened judgement, the harvest of '80 was carried out peacefully and to the satisfaction of the local people.

## COMMERCE GRINDS ON

Not to be denied, L.W.R.C. once again received a permit to harvest on Mud Lake. In November, four months after Deputy Minister Reynolds' recognition of Metis rights, retiring Minister James Auld had reversed the decision. His ruling, an ambiguous interpretation of the moratorium certainly contradicts the spirit of the legislation--yet it does seem more appropriate in light of prior government policy concerning the commercial harvest of wild rice.

In light of Reynolds' proper and moral recognition of a local peoples' right to retain their own resource, Auld's reversal appears very cynical indeed. As with the earlier hearing at Sharbot Lake, local people learned of the decision only after Harold Perry had driven 60 miles to Tweed to renew his permit. One third of the harvest had been given to L.W.R.C. for commercial purposes.

At this point the people of Ardoch began to realize what they were up against. Without strong political backing they might win isolated victories, but obviously L.W.R.C. and the Ontario government were determined to take wild rice from Mud Lake. The people issued calls for help to area reserves, who in turn called upon The Association of Iroquois and Allied Indians (A.I.A.I.) and the Union of Ontario Indians (U.O.I.). Under the guidance of the Ontario Metis Association (O.M.A.), area people also set up their own Metis brance, the Manomin Local.

With the '81 harvest almost due, ardoch residents were now supported by their provincial Indian and Metis associations. Together they held public meetings and demonstrated at the M.N.R. office in Tweed. With no further government developments, the scene was set for confrontation.

## CONFRONTATION

For 2 weeks the local people and their supporters maintained a constant blockade of the river. Then, on August 29, escorted by 2 O.P.P. cruisers, L.W.R.C. attempted to gain access to the rice. Before they even reached the river they were turned back by the road block which numbered about thirty people.

The next day, reinforced by a virtual army of twenty more O.P.P. cruisers, 2 paddy wagons, 2 O.P.P. helicopters, and 8 boatloads of M.N.R. conservation officers, the O.P.P. again tried to escort L.W.R.C. to the rice. Again, they were turned back by the determined efforts of the Ardoch people and their supporters.

Without relating all the details of the confrontation, it is incredible, and to the enduring credit of the defenders of the rice that serious violence was avoided.

Eventually, the harvest of '81 was carried out in the traditional fashion of the people of Ardoch.

## THE FOUNDING OF IMSET

Having won the '81 harvest, local people were not about to face the '82 harvest unprepared. In addition to maintaining the Metis local and their on-going relationship with A.I.A.I. and U.O.I., they established a specific organization to manage the rice. Justification for keeping the rice in the long term would have to come from policy, and harvest records.

The unique structure of IMSET is in itself a tribute to peaceful co-existence. A twelve member board of directors is made up of four status Indians (2 from U.O.I. and 2 from A.I.A.I.), four Metis (2 from The Monomin local, and 2 from 'O.M.A.), and four white settlers (2 from each of the two town-

ships surrounding Mud Lake).

In its first meeting, September 19, 1981, Imset formulated its guiding principles:

- Protect Mud Lake's wild rice from destruction
- No commercial operations in traditional harvesting areas
- Demonstrate community co-operation
- Develop a reseeding program for new and previously traditional areas
- Share the traditions of wild rice harvesting
- Control public access in conjunction with a management program
- Insure that Indians have a say in management of Indian resources
- Manage the wild rice to maintain the right of Indian and indigenous people to a traditional harvest of wild rice each year
- To maintain the ecology of the area to facilitate the industry of tourism
- Document the uses of the ricing area
  - seek out funding for studies
  - design studies
  - broadcast data and information on wetland ecology
- Promote the understanding and harmonious action between the various cultural groups who share native and indigenous rights to the wild rice at Mud Lake
- Harvesters should contribute to the management and operation of the association
- Adopted an attitude of co-operation with government agencies to effectively manage the wild rice area
- Explore job creation in relation to the wild rice area
- Provide a group of people, who can assist government agencies in interpreting research data on the ricing area for co-operation and successful management.

## THE INFLUENCE OF IMSET

The presence and influence of Imset has already meant much to the people of Ardoch. As a result of the harvest confrontation in 1981, another hearing took place late in the year. With the inclusion of A.I.A.I., U.O.I., and O.M.A., the government met with formidable resistance.

Although the eventual judgement of the new Minister of Natural Resources, Alan Pope, retained the government's right to allocate 30% of the rice to commercial interests, the wording was ambiguous. Pope said that a permit would be granted to "any commercial harvester who in his opinion could create jobs and money...either by traditional or mechanical means".<sup>9</sup> Fearful that the designated harvester might be someone other than themselves, and that the harvest might still introduce mechanical harvesters to Mud Lake, Imset rejected Pope's decision and resolved to stand against further intrusion.

The words of Harold Perry, local Metis representative to Imset, best describe the feeling of that body:

From the outset of this dispute, we have attempted to recognize the Ministry of Natural Resources as a legitimate interest in the wild rice at Mud Lake. Because we recognize this interest, our members, before and after a formal organization, have attempted to establish a rational and trust-worthy relationship with your Ministry. We have struggled with ourselves to prepare compromises which would allow for the meeting of your Executives as well as ours. Our members have played down the issue of the rights over the wild rice at Mud Lake, in order to establish peace and co-operation. We have developed a management strategy, which is logical and effective for protecting the resource for perpetuity, which will still accommodate your goals and ours. We have exercised extreme patience in allowing the Ministry to understand the local issues which, while overlooking time after time the indiscretions exorcised by your

unyielding authority, because we offered these positions and attitudes in order to accomodate your Ministry's interest. We now feel that the time has come, in light of your most recent decisions, to withdraw any and all concessions which we have made, in an attempt to reach a <sup>10</sup> peaceful settlement.

On the strength of Imset resistance, Pope backed off, allowing the people of Ardoch to harvest their wild rice undisturbed in 1982. According to Imset documentation, 95 harvesters took 5,000 pounds of rice for their own domestic use. In a concession to M.N.R.'s "30% commercial policy", Imset is developing a re-seeding program which will barter and sell seed to other groups wishing to develop the resource. Profits from these sales will be turned back to local people in the form of various social benefits.

Hopefully, what has been established by Imset will be respected and honoured in 1983 when the moratorium is lifted. If there is an justice in government, then the people of Ardoch, in union with Imset, should be left to harvest and manage wild rice for themselves.

#### WHY ARDOCH?

It remains to determine why 112 acres of wild rice on Mud Lake were so important that the government should have pursued their beligerent policies over a three year period from 1979 through 1982. While the value of 5,000 pounds of wild rice might mean a secure commercial basis for L.W.R.C., it is certainly a pittance compared to the time, energy and money wasted by the government on everyone's behalf, in allowing such a farce to continue.

The most logical possibility, if logic really is involved, is that Ardoch is a "test case".<sup>11</sup> On a scale of value it doesn't take much logic to see that the crop at Ardoch has little commercial value. What is at stake, how-

ever, are vast, remote tracts of wild rice in North-west Ontario.<sup>12</sup> But these tracts are more clearly protected by Treaty rights.

The Paypom Document, held by Treaty 3 Indians, claim harvest rights to the 55,000 square mile region between Lake Superior and Lake Winnipeg. For the government to take that rice for commercial harvesters, as M.N.R. Minister Leo Bernier tried to do in 1977, would be to wade in uncertain waters. Besides legal difficulty , the government would immediately have faced the political resistance of organized status Indians.

Thus it was much safer for the government to test provincial wild rice policy by issuing their first harvest permits in Southern Ontario--far from their intended goal. In Ardoch there was no legal claim to the rice, no status Indians; in fact there was no organization at all.

As far as public opinion was concerned, news of local resistance would have been lost in the local newspapers of small villages. If they encountered more serious resistance, the government could guage the resulting reaction of the media in a localized situation. Surely Ardoch was a safe bet for a test case.

Such was not the case.

## PUBLIC OPINION: SHAPING OF ATTITUDES

A most serious threat to wild rice is the weight of public opinion, and Indian-Metis groups lack the funds and machinery to compete with business and government. In the furor which resulted from the confrontation at Ardoch, it was first the spectacle which attracted media attention. After that it was the righteousness of their cause in the face of government militarism that resulted in favourable media coverage for Ardoch.<sup>13</sup>

Yet, during the long periods in between "battles", government and business have the everyday benefit of salaries and profits to keep their case before the public eye.

While majority opinion may be vulnerable to moral causes at the time of crisis, it is during the long run laws are quietly passed. Once on the books, laws are hard to change--at least by the electorate, as Harold Perry discovered when Auld quietly reversed M.N.R. policy in 1980. Even during a moratorium on the commercial development of wild rice, the government has established the precedent of issuing commercial permits.

## THE PROTESTANT ETHIC AND RACISM

The public attitude which supports these laws is most difficult to deal with and has at its roots the protestant ethic and racism itself. The protestant ethic, a white European value, says that profit goes to he who works hard and deserves it.

When former Minister of Natural Resources, Leo Bernier, spoke of wild rice as an "undeveloped resource", he not only implied that there was a profit to be made, he also implied that the resource was being wasted in aboriginal hands.

The five year moratorium itself has the appearance to those instilled with the protestant ethic of and overgenerous granting of time. It also creates an impossible situation where the onus is put on aboriginal people to become something they are not-- or lose their rice.<sup>14</sup>

#### THE FACTS

With the general public aware that wild rice "must" be developed in order to stimulate the economy and create jobs, they are prepared and gullible enough to accept and facts readily presented on business' behalf.

For example, in early land use planning documents M.N.R. Minister Bernier spoke of 1976 as "a bumper year for rice"...He further wrote, "It is disconcerting, however to hear that the people did not take full advantage of the crop. Our latest information indicates that only about 10% of the available crop was harvested."<sup>15</sup> The statistics are very misleading and easily refuted, but arguments counter to M.N.R. statistics aren't published very widely.<sup>16</sup>

Similarly at Ardoch, original M.N.R. reports stated that wild rice stands extended over 350 acres. By these statistics a 5,000 pound harvest would seem small. It took the influence of Imset to provoke an accurate study which found the productive area to be only 112 acres--less than one third the governments' estimates!

In both cases the impression is too readily accepted--that a valuable resource is being wasted. Traders from Treaty 3 charge, "The government statistics are clearly designed to manipulate public opinion. The theft of Indian wild rice rights is much easier if the public has been misinformed with biased facts."<sup>17</sup>

## TRADITIONAL VS. MECHANICAL

Another charge leveled against aboriginal harvesting is that traditional means, by canoe, is slow, unproductive--hence wasteful. While not all Indian and Metis groups seek to harvest by traditional means, those in Ardoch are adamant in their demands to keep their old ways.

Bob Lovelace, president of Imset, states, "Traditional and mechanical harvesting just doesn't mix,"<sup>18</sup> It is a more respectful and humbling harvest, more suited to the religious understanding of Manomin, that is carried out by hand. Furthermore, the traditional harvest has always been a coming together of families and friends, a celebration of work and thanksgiving. Even the white settlers of Ardoch appreciate this fact and that is why the union of the three cultures has been possible there.

On the basis of short term data it would appear that mechanical harvests produce more rice. But how much more, and for how long is open to question. Imset fears that mechanical equipment may harm rice plants, and perhaps take too much seed at the expense of re-seeding. Soft data would support this view. To be sure, and to be informed, Imset co-operates with several university research projects.<sup>19</sup>

Whether or not studies finally will favour traditional or mechanical harvest methods, it should remain to indigenous harvestors to decide upon their own means. It should also be understood by the general public that there is much more than money at stake in the demand of aboriginal people to retain their traditional harvests.

Without equal access to the media, the people whose resource is threatened, cannot adequately challenge the attitudes shaped by business and government. Without equal access to media, the case for commercial development is all too likely to be a pat cliche comprised of old prejudices.

Aboriginal people need more time and a fair opportunity to influence public opinion themselves. A five year moratorium is far too short a time for Indian and Metis people to change the cultural patterns of 100 years.

The immediate answer is to prolong the moratorium. Long term solutions must allow aboriginal peoples to manage and develop their own resource as they see fit. As always, there will be room for both white and aboriginal cultures to develop wild rice according to everyone's benefit--if given time.

The story of Ardoch illustrates the folly of forced solutions--as the true waste in the controversy. But the story of Ardoch also shows the ability of indigenous people of all cultures to work out their own solutions.

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### SECTION 3

ORAL TRADITION

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## ORAL TRADITIONS AND THEIR RELEVANCE

### PRELUDÉ

All decisions are reached following the development of a sufficient information base. In Euro-Canadian terms this generally means 'the written word'. An examination of the material utilized by the Ministry of Natural Resources to develop its land use plans would attest to this reality. For all practical purposes these plans are developed entirely on a lengthy series of 'scientific reports'.

In terms of our people, this process is incredibly incomplete. The information base required to make such plans must be extended to include 'oral tradition'. That body of knowledge most often referred to as ethnocentric. As you are aware, in the eyes of Euro-Canadians ethnocentric knowledge is considered to be of insignificant value. Such is not the case. It is our belief that the oral records of our people are as binding as are the archives and records kept by Euro-Canadians.

## SUMMARY

This section contrasts oral and literate cultures in terms of the validity and accuracy of information transmission by either method. Using biblical and classical references the report suggests the oral forms are the more accurate and are distorted by translation into literate forms. Relating this to the oral traditions of Metis people, the report recommends the acceptance of oral information relating to aboriginal claims.

The report points out that many of the mystic or occult oral traditions of aboriginal peoples were, in fact, verbal description of scientifically verifiable events and circumstances. The formula and theme of oral culture is described in terms of its communicative capacity in literate contexts, which, the report suggests, can be avoided by the use of video-tape.

The final section of the report outlines more specifically the impact of orally transmitted information and the facility of videotape as a tool for oral documentation. The report concludes with recommendations for applying this process to the decision making practices utilized in Ontario, specifically by the Ministry of Natural Resources.

In order to firmly establish the precedence of the oral tradition over the written tradition on which Government legal arguments are based, we will begin by showing that the Bible itself, which incorporates the foundations of all written laws in western society, is itself based on ancient oral or spoken traditions.

A society in which there is no reading and writing in the form understood by European tradition, or in which these skills are not widely used, preserves its literature, land claims and laws by oral tradition.

This means that the method of transmitting information on hunting territories from one generation to the next is by word of mouth and by

practice. The change from a completely oral society to a fully literate one may be slow.<sup>1</sup> There are degrees of literacy owing to the fact that the use of writing may be limited for various reasons.<sup>2</sup> Writing may be confined to a certain group or classes of people who use it for commerce, land transactions and government records. Or the use of writing may be restricted by the difficulty of using a particular script, and its use is also restricted by the availability of writing materials.

For example, a recent researcher discovered two kinds of informants on the island of Crete, which is regarded as one of the cradles of western civilization.<sup>3</sup> This demonstrates that oral information can occur in either a fixed or unfixed form. Some people could recite from memory a fixed text of the songs they knew, while others performed traditional poetry in a freer form.

The fixed form of transmission needs no explanation, because it is accomplished by verbatim memorization, which is still used in our primary schools to teach the basic elements of reading, writing and arithmetic. The Bible and the Cathechism are taught in this manner. The Jewish Mishnah, the Koran and the Indian Vedas are all transmitted by oral tradition and repetition.<sup>4</sup>

The unfixed form is essentially different from the fixed form and has been studied extensively by scholars most thoroughly where it applies to poetry. As most of the ancient traditions of a people are preserved in the poetic myths and legends, this has particular relevance to North American records, and to the legitimacy of the land claims of the Metis and Native People.

People who transmit poetry in this form are not reciters who memorize and retain traditional texts verbatim but are creative living archives who adapt the material and update it according to changing conditions and fashions. The story tellers of the Indian and Metis communities must be seen in this light. They know the stock phrases

and stereo-typed expressions which are used as mnemonic aids to give the story teller time to adapt and present the information in a manner that will entertain and inform the audience. By creatively combining and adapting traditional material, these record keepers recompose traditional stories in each performance. Consequently no two performances of the same story or epic are exactly alike.<sup>5</sup> Transmission is accomplished by continual recombination, and this means that while style of two stories relating to land claims may differ slightly, the substance remains the same.<sup>6</sup> Legal arguments based on the discrepancies in the stories of two or more witnesses, testifying on land claims in a court of law cannot be subjected to the same rules of evidence that apply in other cases where both parties come from the same written tradition. To challenge indigenous land claims on this basis would be to fly in the face of insurmountable evidence from reputable and respected scholars and university experts.

The method of composition employed by such keepers of laws and traditions is called the 'formulaic technique of oral composition' because the main devices used are certain kinds of stock phrases called formulas and formulaic phrases respectively.

There is no comprehensive or up-to-date work describing formulaic technique in oral composition in the different cultures and languages, according to Robert C. Culley's book 'Oral Formulaic Language in the Biblical Psalms', University of Toronto Press, 1967, so this presentation is based on a number of different studies, all of which are identified and can be checked by lawyers researchers. To firmly establish the authenticity of land claims, based on oral traditions, the studies of M. Parry and A. B. Lord, are described by experts as 'the most careful and thorough study of oral narrative poetry yet made'. Other researchers in the Soviet Union and elsewhere have firmly established the techniques of oral composition and the devices used by keepers of these traditions to insure the accuracy of their accounts.

The results of these field studies, and of analyses made by computer

pattern research techniques clearly demonstrate the value of the oral tradition and, when related to the Bible, show that it is based in large part on laws and customs which prevailed long before the invention of the phonetic alphabet.

These field and text studies reveal a very important fact. 'This technique is clearly a universal phenomenon in the sense that it is likely to be found wherever oral literature exists,' according to Culley.

It is not a method of composition or of recording facts which is limited to a special place or time, because the technique has been found among people all over the world and in different historical periods.

Moreover, the unfixed form of oral transmission is the more common according to the Chadwicks, who remark at the end of their three volume study of oral traditions 'on the whole we must regard the free variety, which allows more or less scope for improvisation, as the normal form of oral tradition, and strict memorization as the exceptional.'

Thus, on the evidence of these respected scholars, we must expect to find the unfixed form far more often than the fixed form in indigenous traditions, and this has relevance to both the Indian and Metis land claims as well as to the Bible on which this presentation is based.

The oral poet is a preserver of tradition and a creative artist and these forces are held in tension within him.

When a shaman or keeper of traditions is reciting his tales, it is normally before a live audience. Not only are members of a new generation listening and learning, but also other older members of the group who will be quick to correct any effort to change the substance rather than the form of the story.

A word must be said on the method of translation of these oral traditions into the written English and French records of the 18th and

19th centuries. The European explorers and missionaries who translated the older records, preferred renderings which were nothing but the wildest paraphrases, especially when made from languages which the readers did not themselves know. Thus, the legal documents on which government counter-claims are based must be regarded with great suspicion because in many cases the treaties were signed by people who did not know what they were signing and were drafted, in many cases, by Europeans who were themselves semi-literate. The illiteracy and semi-literacy of 19th Century lawyers in Upper Canada can easily be established from even a cursory study of the records in Osgoods Hall and in the archives of the Law Society of Upper Canada.

To claim then, that treaties signed by people who were semi-literate in the written mode, and drafted by Europeans who were themselves not very proficient in the English and French languages are legal, is at best comical and in the strict legal and academic sense unjustifiable.

According to Dr. K. H. Jackson, an expert on oral traditions, 'the 19th century favored an artificial semi-Biblical English which might degenerate into pure 'Wardour Street.' Traces of this are still with us. We will still meet the outrageous paraphrase, particularly in translations into English verse, where it is excused on the ground that it 'renders the spirit' rather than the word. When treaties and other 19th century documents relating to land claims were translated, not into verse, but into very inadequate legal jargon then both the spirit and the very word were the casualties.

The science of linguistics has helped us to reconstruct the long road of the ancestors of the modern Metis and Non-Status Indians of modern Canada and North America. When the first Europeans arrived they found a Babel of tongues, and in North and South America more languages were spoken....about 2,200....than in all of Europe and Asia at that time.

In North America alone, according to Peter Farb in 'Man's Rise to

Civilization as shown by the Indians of North America' there were 550 distinct languages and nearly every language contained numerous dialects.

'A second misconception' he writes 'was that language had to be written in order to rank as a full fledged language.' In North America, a truly written language developed only in Mexico, yet most Indian groups were able to communicate a rich unwritten tradition of poetry, oratory and drama, all relating to their hunting territories and histories.

These languages were no more primitive than European languages, nor were they any more limited in their vocabularies. A sample dictionary of the English language for use by those with an education beyond the high school level contains about 45,000 words. Shakespeare used about 23,000 words and the King James Bible 7,000. The number of words recorded in the Nahuatl language of Mexico is 27,000, in Maya 20,000, in Dakota 19,000. Similar vocabularies have been recorded in the Indian language family known as Algonkian, which includes speakers from the Atlantic to the Pacific and in the Ojibway and Cree.

There is no such thing as a 'primitive language' according to Farb. There is only primitive writing and a lot of this can be found in 19th Century official land claim documents drawn up by government agents. All spoken languages are able to express whatever their cultures require of them, whether it is a concrete name for a lake or mountain, a bird or animal or an abstract word to explain religious concepts.

Conversation is one of man's principal amusements. Primitive peoples delight in it, and a good speaker often achieves high status.

By inventing words such as 'radio-active' or 'whereas' and heretofore, the legal vocabulary is enriched and made somewhat more accurate but, according to experts in linguistics the language itself does not change. The sounds of a language are much less subject to change than the vocabulary and the overall plan of the structure of the language changes scarcely at all.

'These principles apply equally to unwritten languages, for it is only Western civilization's sense of superiority that leads it to maintain that unwritten languages change more rapidly than do written languages' according to Perter Farb.

Another significant factor to be borne in mind when comparing the oral traditions of the Indian and Metis people to the written records of the European settlers is the direct correlation between cultural artifacts and language groups. Hunting territories which rely on the oral traditions and practice for their authority can be directly related to pottery shards, arrow heads and other hard cultural signatures. While the exact meaning of a word could be debated for days, especially when it applies to some distinctive geographical feature, the presence of a cultural group or band must be accepted as hard evidence.

This kind of evidence can be used to substantiate land claims when written records challenge the authenticity of the oral tradition. Horizon dating, as used by archaeologists, can show that a particular language group has been in occupation of a particular territory for a long period of time and cannot be seen as something separate or different. Like words artifacts are hard evidence to demonstrate tenure.

The relationship between language and culture has been formulated into a hypothesis by two American linguists, Sapir and Whorf. According to Sapir, man does not live in the midst of the whole world, but 'only in that part of it that his language lets him know.' He is, says Sapir 'very much at the mercy of that particular language which has become the medium of expression' for his group. The real world is therefore 'to a large extent unconsciously built up on the language habits of the group.....the world in which different societies live are distinct worlds, not merely the same world with different labels attached.'

An example of this link between religion, culture and what we like to call modern scientific thinking can be taken from an Ontario Government report on strange stone structures near the Trout and Talon Lakes area of North Bay.

According to aboriginal oral traditions, recorded by Etienne Brulle, a hill adjoining the Mattawa Fault was supposed to have a spirit. This was dismissed as superstitious nonsense by hard-headed scholars and missionaries, but as we will see the Aboriginal term for spirit was the same as that used by modern scientists to describe a magnetic anomaly.

When Gabriel Sagard first explored the area in 1623 the local Indian people, the Nipissing, had a reputation as sorcerers and were reputed to have special powers including the ability to direct bolts of fire at their enemies.

In the early 1970's an archaeologist, Allen Tysska, found what he called monumental architecture on what is now called the 'Falframan Site.' When he investigated, he discovered a series of rock steps cut into the hillside leading up to a pyramid cut from the living rock. A number of rock carvings depicting 'stick men' were found on the site as well as a 40 - foot long stone serpent whose head was pointing to the fault.

Aboriginal people living in the area kept reporting strange creatures and other mysterious events and these were confirmed by residents of European extraction. As the reports kept coming in, the area was investigated by Dr. Michael Persinger of Laurentian University. He reported that the crystals embedded in the rock faces of the fault, gringing together under incredible force generate what is called the piezo-electric effect. This is an extreme low frequency field which can, in

fact, induce hallucinations in the human brain, because the frequencies average out at about 16 cycles a second. The human brain operates in the same frequency range, and what the biophysicist demonstrated is that the field effects along the Mattawa Fault can "entrain" the human brain and thus cause people to "see" in some other dimension.

In a paper entitled "Geophysical Models for Parapsychological Experiences" Dr. Persinger provides hard scientific evidence to prove that Indian legends were quite correct, but modern science did not get around to explaining what Aboriginal People knew from ancient oral traditions, until a few years ago.

When Tysska and other scholars examined the rock carvings and pictographs they found that a precise geometry was incorporated into the figures.

Hard evidence of the oral tradition can be found in Brule's account of his explorations, and modern scientific evidence for the accuracy of these traditions is supplied by Persinger and Tysska. The names and words are different, but the effect is the same.

Another instance which can be cited as evidence of Aboriginal oral traditions comes from the writings of the Jesuit missionary Bressani, who lived in Canada from 1645 to 1649. He reports that the Indians had tenacious memories and comments on the "marvellous faculty for remembering places, and for describing them to one another."

"An Indian" Bressani states "can recall things that a white man could not rehearse without writing."<sup>8</sup> Another Jesuit corroborates this by stating that Indians "nearly all show more intelligence in their business, speeches, courtesies, intercourse, tricks and subtleties, than do the shrewdest citizens and merchants in France."

Modern science and law pride themselves on using a logical and codified reception system by which new ideas and theories can be rationally examined before being accepted as "truth." These methods are supposed to insure that lawyers and scientists will keep an open mind to all ideas and give them a fair test in publication and review, and submit them to rigorous and logical analysis in a court of law.

The method implies that there are no cliques in science and law and that an idea will stand on its own worth, and not on the opinion of pre-eminent scientists and lawyers. The stature of the proponents or proposers presumably does not influence the treatment or eventual success of the idea. On the evidence cited above, we have an accurate account of the truth of the Indian legends, one relating to a scientific fact and the other to the ability of Indian "archivists" to memorize amazingly accurate information. What we today call electricity or "piezo-magnetic effect" was known to Aboriginal People as "a spirit" long before the coming of the White Man. If this is true of a subject as profound as geophysics and electromagnetism, then it is only reasonable to assume that oral traditions relating to hunting territories and land claims should be allowed the same legal and scientific validity.

Although it is true that the investigation of oral style and oral traditions still continues and our knowledge of these matters is still incomplete, a great deal has been learned about devices and characteristics.

The main devices used in discussions of oral tradition are the formula and the theme.

A formula in oral traditions is a repeated group of words, the length of which corresponds to one of the divisions

in the story, or poetic structure. Formulas are used repeatedly by oral archivists because they are useful for oral composition. When a story teller is composing, during a recitation he does not have time to experiment with combinations of words until he finds the right one that will express what he wants to say and at the same time retain the rhythm and cadence of the tale. Formulas provide him with ready-made phrases, in much the way as a film maker will use reaction shots and cut-aways to link scenes and sequences. He uses the formula in the same way as the modern television director uses stock shots of automobiles moving through traffic to get the hero of Hawaii Five O or Kojak from one scene to another.

Oral story tellers and poets are sensitive to the patterns and sounds in the words and phrases they use, and they are used to heighten the total effect of their poetry on the listeners. According to Culley, traditional languages can survive a considerable change in the society or culture in which the oral tradition is at home. We are told that after the change from paganism to Christianity Anglo-Saxon singers "were able to adapt with only slight adjustments the traditional language of pagan times to Christian themes."

In almost every case where scholars and researchers have checked out the accuracy of ancient folk tales, from the psalms of the Bible to the legends of the Celtic peoples, they are found to be accurate journalistic accounts of actual events. This brings us to the theme.

The theme has to do with content, and according to A. B. Lord writing about Homeric poems, is a "recurrent element of narration or description in traditional oral poetry."

The emphasis on formula and theme in oral traditions is necessary if we are to confirm the statement made in the open-

ing paragraphs of this report that the Bible itself is based on ancient oral traditions, and that the basis of all our laws, religious and secular, stems from the spoken word and the oral tradition. This brings us to the next matter to be examined, and that is, how are orally composed stories and poems recorded? What are the ways in which orally composed traditions find their way into writing?

Another question arises from this - how accurate are these written records of older spoken traditions?

In modern field studies, oral traditions may be recorded directly into audio and videotape, and there is no doubt that this is by far the most accurate way of preserving these traditions. The Ontario Metis Association already has commenced to record the memories and traditions of the Indian and Metis people.

Perhaps the most obvious method of recording a spoken tradition is by dictation. It has been found, however, that dictated texts of oral narratives differ from the actual performance. When keepers of traditions are interviewed by anthropologists and field researchers, experience indicates they produce a different kind of text when dictating than when reciting the story to a group of neighbors and relatives. This is fully documented by A. B. Lord (*Homer's Originality: Oral Dictated Texts*," *Transactions of the American Philological Association*, LXXXIV 1953).

Similar proof of this is offered by Milman Parry, as well as H. M. and N. K. Chadwick and other prominent experts on the oral traditions, so that a significant body of evidence can be produced to testify to the truth of this assertion.

The difference between dictated texts and stories told

to a sympathetic audience is due to a number of things. In a normal performance, the story teller sings or recites the poem or story before an audience, Whereas for dictation he must recite slowly and the usual rhythms and movements of the story are lacking as well as the interaction from the audience which inspires the story teller. Another reason is that the story teller who is accustomed to chanting or reciting the story has considerable difficulty in adapting to a slow recitation. This difficulty is reflected in the style which may betray variations in line structure as well as a less consistent use of story telling devices than in a normal story telling performance.

When a television camera is used by someone who is known to the story teller a far more accurate and believable account can be recorded, enriched by the use of facial expressions, changes in tone of voice and emphasis on words and by the use of gestures. It is a living record of a living archive.

When writing first introduced into Ireland, Britain and Gaul, the Celtic Druids or Shamans of the Gallic tribesmen denounced the new Greek invention. They said that once a thing was written down it would be forgotten, and the story would become the property of the person who owned the document.

They further claimed, according to Caesar, Tacitus and Clement of Alexandria that use of writing would lead to the loss of the incredibility to memorize tribal traditions and myths. Recent studies of comparative mythology indicate they were quite correct, because we can now show that this is in fact what happened. The words recorded in Greek and Latin were altered to suit the purposes of the new civilization, and it was only on the old Celtic fringe of Europe, on the west coast of Ireland and the Highlands of Scotland where the ancient Gaelic language was pre-

served down to the present day that the original versions of folk tales and legends were discovered intact.

By using formulas and themes, scholars were able to link these older versions to the written traditions and arrive at the truth. For the Indian and Metis people of Ontario and America, where these traditions are still preserved in living form, one of the most urgent and important tasks is to record their versions of events, before their history, culture and legends are lost in the translation from the oral to the written word.

Instead of belonging to the people as part of their heritage, the written records of their traditions can be picked apart, word by word by lawyers and thus misrepresented and distorted, often with the best intentions, but nevertheless, to the detriment of the people as a whole.

The boundaries between the spoken and written traditions become blurred and remain blurred, and this lack of distinction is translated into land boundaries.

The case for oral formula language in the psalms and verses of the Old Testament rests on the accumulation of various kinds of evidence, which when brought together form a convincing pattern. This is because the Bible can be analysed for formulaic patterns.

There are several different types of poems from different periods in history "writes Culley", and the kind of evidence to be drawn together consists, by and large, of the devices and characteristics of oral style.

After going on to compare various verses and psalms, and subjecting them to critical analysis, he demonstrates the ex-

istence of the traditional oral formulas which shows they were originally part of chants and stories sung by the priests of ancient Israel for various sacred occasions.

When seen in larger perspective, the results of his study of oral formulas in the Bible have wider implications which should not be overlooked.

"The presence of oral formulaic language in biblical psalms supports the idea that some types of psalms originated in the cult," he writes. "This body of language suggests that there must have been a time when there was a living tradition of oral composition. In the case of some hymns with considerable formulaic content (e. g. Psalms 96, 97 & 98) the tradition could be a very early one going back to the Canaanite religion," he writes.

This would place the oral traditions on which the Bible is based back to a period before the use of Hebrew writing, or at least more than 3,000 years ago.

The poets of the Bible were more than mere mouthpieces for the group, expressing traditions held commonly by all "They were a mixture of preserver of tradition and creative artist and, if a good poet, able to work with the traditional material so that it received through him its finest and best expression."

When applied to the old men and women of the Metis and Indian communities, this statement assumes great importance. It indicates that the Bible which we use today as the basis of traditional wisdom, law and religion is merely a transcript of oral tradition which may have passed away 3,000 years ago. With the Metis and Indian peoples, it is still a living tradition and their oral accounts of land claims and territories must be seen in the same light. The best, most accurate and believable way

of preserving these traditions is to record them live, while they still retain their traditions, on videotape.

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THE USE OF COLOR VIDEOTAPE TECHNOLOGY IN THE  
RECORDING AND STORING OF TRADITIONS AND FOLK-  
LORE.

PRELUDE

Public Participation must by definition involve the residents affected by the decision making process. For the most part this is not a functional reality in the north. To improve the required systems one must understand the nature of the area residents.

In the minds of most Canadians the Metis are most readily defined as the participant of the Riel Rebellion. In point of fact there was not a rebellion, in the political sense, rather there were a series of battles as the Metis sought to preserve their government body. A nation defending itself cannot be considered in rebellion. At that time in Manitoba the Metis government established by the people of the region.

The current perspectives of Euro-Canadians with respect to the Metis are quite similar to those of the late nineteenth century. I don't expect we will be forced to defend ourselves in the same fashion as was required in Riel's time, yet we are still forced into a defensive position. No viable system of public participation can be built while a people are in such a position. To begin to build an effective decision-making process one must begin by removing the barriers to communication, which are currently in place. Those barriers have consciously been built over the years and must be removed in a similar fashion.

In the north the Metis community is most evident in the "buffer zones". Those areas which have been (and are) the focal points of interaction between Indians and Euro-Canadians. The list of communities is endless, Moosonee is the most evident in the James Bay area. It is not unique, yet it serves well to demonstrate the decisions which led the Metis into their current dilemma. The dilemma of being an indigenous people who are not truly a part of either the decision making process of the Euro-Canadians or Indian systems.

All mature people are now aware of the constantly accelerating rate of evolutionary transformation engulfing all humanity, and entire new disciplines have developed with the rapid growth of communications technology. information and communications are only two of the highly specialized fields centering on theory and technology which are fast changing the way in which people record, store and retrieve data.

McLuhan and other philosophers of this new communications age have pointed out that the television image is fast replacing the written word as the primary source of information, and statistics do indeed confirm these statements. However, before going on to examine how important videotaped records are to the Indian and Metis People, I would like to outline the impact which the written word and the printing press had on Western European society.

People overlook the fact that before the invention of the printing press, scholars had to travel across Europe, from monastery to monastery, in order to study manuscripts stored in dusty archives, and only a very few people were able to read and write. Writing was, in fact, the exclusive preserve of the ruling classes and the religious hierarchies, and was one of the principal instruments used by the authorities to preserve the stability of society. It has been pointed out that Martin Luther, who started the Protestant Reformation would have died an obscure monk whose ideas would have remained unknown if the printing presses had not spread his challenge to Church authority throughout Europe like wildfire. The social and political impact of this on the history of Europe and the world is now apparent to everybody.

The printing press is credited with being the main cause of the industrial revolution and through the rapid dissemination of information, the writings of Plato, Aristotle and other ancient philosophers found their way into the main stream. By the time the first Europeans arrived in the Americas, this rev-

olution, triggered by communications technology was already setting Europe ablaze.

It is no accident that the earliest histories of ancient Greece, Europe and China were primarily concerned with speeches and speech-making. It was Lord Macaulay who observed that the "Government is two-thirds talk." In ancient China speech was the principal means by which the ruler and his people mutually influenced one another. This was because Government operated without a vast structure of bureaucracy, according to Professor Robert T. Oliver (*Communications and Culture in Ancient China and India*, Syracuse University Press, 1971).

This also applies to North America where all traditions were recorded orally by the Aboriginal people. Laws did not penetrate into every aspect of personal life, and government existed basically to preserve a viable social harmony.

"Hence," Oliver writes, "the first historical writings in Ancient China were anthologies of speeches by kings and their counsellors."

Like the Indigenous People of Canada, the ancients of India and China viewed rhetoric, not as a separate inquiry "but as an inherent part of their overall world view. In their view, the manner of talk was less an aspect of life than a key revelation of the speaker and the community's way of life. Rhetoric is authentic only in its cultural matrix..." It is real only as it is an emergent from the philosophy and practice of its theorists and its practitioners," Oliver states.

That is why the best and most accurate way to record and preserve the land claims of the Indian and Metis peoples is to record them live, while they are still part of a living tradition, with the portable videotape recorder.

Since the year 1900, some 4,000 different languages and cultures have been swept away in the inexorable push towards a world culture. Dr. Stanley Diamond, who has studied and written about the early hunter-gatherer societies of ancient Europe has pointed out that it wasn't until some 12,000 years ago that agriculture began to play a small part in some corners of the world, and it is only in the past two hundred years that any sizeable proportion of any civilized country has had much literacy.

"Thus oral literature, the ballad, the folk tale, myth, the songs, the subject matter of 'ethnopoetics' has been the major literary experience of mankind" he says.

At a special symposium organized by the Center for 20th Century Studies of the University of Wisconsin, whose published papers I am now quoting from, it was pointed out that "tribal poetries" must be regarded "as values in themselves, rather than as ethnographic data."

Collections of American Indian mythology, folklore and song go back to the 1880's. The quantity becomes really large after 1900 (Annual Reports of the Bureau of American Ethnology, the American Ethnological Society, the American Folklore Society, and so forth).

A large body of American Indian literature exists in English but almost no popular publication of it in forms which are easily available to large numbers of people."

The same is largely true in Canada, and while there is a growing body of literature now available, in its printed form it must be regarded as too little and too late. For the Metis people, whose very identity has been almost eradicated by the use of different names, from "half-breeds" to Bois Brules" there is little or nothing available.

This is not only unjust and discriminatory, but it becomes all the more ironic when we study the behaviour of Asian governments towards their own native aboriginal peoples. In Japan for instance, the aboriginal people, known as the "Ainu" have been studied and found to be related by religious customs, language and traditions to the Celtic people of England, Scotland Wales, Ireland and France.

Dr. Kindaichi and his associates began to study oral literature in the 1930's and produced one of the largest single bodies of oral literature that has ever been collected, in Japanese translation from Ainu. But it wasn't until 1970 that the first easily available paperback selections of this literature came out. Until then, it was buried in very rare and expensive scholarly books.

The Ainu are now regarded as an endangered people and great efforts are being made to preserve their distinctive culture and oral traditions. There are other examples of a more enlightened approach to aboriginal cultures which should be examined as case studies of what could be done with videotape programs on the Indian and Metis people of Canada.

The culture and history of the Indian and Metis people does not apply only to land claims. It is part of the rich mosaic which goes to make up the Canadian people and its preservation deserves urgent and comprehensive efforts. With video now taking the place of the printing press, and playing the same role that the book played in the recent history of Europe, the tools are ready at hand. All that is required is the good will and support of responsible authorities. To show how important this task is, we can study a more recent example from Finland.

In the 19th Century, a young doctor named Lonrat wandered through the northern parts of Finland, collecting the remaining fragments of songs and epics and tales that the people were still

telling. He strung these together in an order which he more or less perceived, and called it the Kalevala.

It became overnight the Finnish national epic and helped the Finns retain their identity against the Swedish influence on one side and the Russian on the other. "It may well be that Dr. Lonnrat's walking around in the summertime is responsible for the fact that there is a nation called Finland today," the Center report states.

The metrical scan and scope of Lonnrat's work inspired the American poet, Longfellow, to tackle a similar task in the poem "Hiawatha" and also in "Evangeline" but as any student of Indian folklore can attest, the tales lost much in the translation. If these tales had been recorded by the people who knew them, the results would have been very different.

The greatest epic in Western European civilization is Homer's Ulysses, told in the stories of the Illiad and the Odyssey, but Home, according to the report "is not the beginning of a tradition. Homer incorporates the prior eight thousand years of oral material" like the scribes who put the Ainu lore of Japan into writing.

Homer's poetry was read carefully by Schliemann, and using it as a guide he found the buried ruins of the City of Troy. This is just one example of how actual facts are recorded and preserved over thousands of years in the oral histories of a people. Today, modern archaeologists are using the same oral traditions in the Bible to discover the traces of lost cities and vanished civilizations buried beneath the sands of the deserts of the Middle East.

The oral traditions of the Indian and Metis people must be seen as a "primary source" not only for information on their

history and culture, but also as "prima facie" evidence to attest to the truth and justice of their claims.

An old man or woman, reciting a story while pointing to a hill or lake, recorded on color videotape is primary evidence and is accepted as such by any reputable scholar. The videotape medium is the ideal, perhaps the only medium on which this kind of evidence and testimony can be recorded.

The portable television camera and recorder is the only way we can capture, in its original context, the rich vocabulary and repertoire of facial expressions, gestures, signs and other sign language devices which are unique to the Aboriginal people of North America.

It has been pointed out that sign language is perhaps the greatest contribution to the development of communications in the world, and it is accepted that the indigenous People of North America had a vocabulary of more than 700,000 different signs. This was not a simple way of denoting basic attitudes, but was a complex and fully developed language, with its own laws of syntax and grammar, more subtle in its connotations and meanings than most spoken languages.

The use of symbols, of rock art and other symbolic devices is also an essential component of the Aboriginal people's culture and history. They can only be shown in full color, with the narrator explaining their exact significance. When Norval Morrisseau explains that the red ochre pictographs which are found at many ancient sites in Canada and Ontario, were written by medicine men, long ago, with blood which came from their finger tips, we are in the presence of a great artist, explaining the art and religious beliefs of his people. We can see and understand what he is talking about.

When a wiseman or woman, keepers of ancient traditions, explain the astronomical significance of "medicine wheels" we are watching and understanding what Hawkins and Dr. Alexander Thom can only speculate about when walking through the stone circles of Scotland and Britain.

This kind of information and knowledge is unique in the world and can be of value to everybody in helping to understand how the ancestors of the European settlers once lived. They can tell people how in olden times each band has its own circuits, a route through time and space, in a specific range. It is time and space because, as we know from the Indian and Metis hunters, the hunting schedule took into account the movement of game in pursuit of its own feeding and mating patterns.

The ancestors of European Canadians, like the modern Metis and Indian people, occupied an ecological niche that kept bands on the move in a regular repetitious pattern, following game and adjusting to the seasons.

When recorded on videotape, we can understand the significance of geographical markers, such as caves, hills, rivers, etc. Of the many ways to mark the boundaries of a territory or the locations of a sacred place, the most significant is the symbols and the lore attached to it.

The cave art of Lascaux in France and other parts of Europe and the stories of Metis and Indian people about the landmarks in their range all mean the same thing, and show that natural spaces have been transformed into cultural places or sacred theatres. The pictographs on the cliff face of Bon Echo rock in Mazinaw Lake area, the cairns at Charleston Lake or the monumental architecture of the Palframan site on Trout and Talon Lakes are all part of the sacred beliefs and religion of the

native people - a kind of "writing" on a space; an integration of geography, calendar, social interaction and the ability of people to transform natural items into cultural items.

Only with the portable videotape unit can all this be recorded and understood.

When Indian and Metis story tellers recite their version of an event, such as the signing of a treaty, the event itself absorbed into the action of reconstructing what took place. In court room trials this is done verbally and attested to in writing - on the videotape record it will be done by analogy, by telling and doing again what the oral tradition describes. It may require a hand gesture to take in the vista from a hill top or even a walk along a riverbank or some other distinctive landmark.

This is evidence - the only evidence that can be accepted by the Indian and Metis people, and the only evidence that really attests to their truth and justice. The tapes or cassetts become visual dispositions, backed up by oral account.

Writing about the way the Australian aborigines preserved their traditions, Richard A. Gould (Yiwara - Charles Scribners Sons, 1969, pp 103-1-4) states:

"The aborigines are masters of stagecraft and achieve remarkable visual and musical effects with the limited materials at hand. Gradually, I experienced the central truth of aboriginal religion; that it is not a thing by itself but an inseparable part of the whole that encompasses every aspect of daily life, every individual and every time: past-present and future. It is nothing less than the theme of existence and, as such, constitutes one of the most sophisticated and unique religious and philosophical systems known to man."

Each rock, waterhole, river and stream is embedded in a matrix of legend and dramatic action. This is the key to the survival of the Aboriginal People of the Americas and the World, and explains why videotape records are the only means of preserving this valuable and unique body of human knowledge.

CONCLUSIONS

- (1) We have clearly shown that oral traditions are the basis of all law. The Bible itself is based on a more ancient oral traditions. It is the symbol of truth and the symbols of justice and law of both God and Man.
- (2) The use of precise formulas by people reciting poems and stories, is a device to aid in the memorizing and recounting of ancient traditions. They are found in the Bible, in Homer's poetry and in every other body of literature.
- (3) The use of facial gestures, changes in tone and voice, the acting out of a story, are all part of the overall performance.
- (4) These oral traditions have particular significance when applied to land claims. When viewed from a religious perspective, it is seen that there can be no artificial separation of the people from the land, the land from the culture, the culture from the religion and the religion from the life of the people.
- (5) Land, religion, history and culture are all one in the Metis and Indian tradition and cannot be recorded accurately by transcribing the stories relating to them onto paper in a different language. The full range of the stories cannot be accurately recorded on audio tape, because the full range of artistic, mimetic, gesture, posture and audience reaction are left out of this kind of record.
- (6) The older people who are the keepers of these traditions are disappearing quickly because of the attrition of old age. It is a matter of great urgency to capture their culture and history before they are all gone.

CONCLUSIONS

(7) Recent developments in videotape technology have placed an economical and unique tool at the disposal of the people responsible for looking after the welfare of the Metis and Indian people. Able to provide the complete range of audio and visual recording, the color portable videotape unit and camera should be used immediately to create the archives of one of Canada's most significant cultural groups.

This is a matter of great urgency, because not only will the younger generation of Indian and Metis be denied access to their own culture, religion and art, their land and traditions, but the whole country will be the poorer. They can add a vital and dynamic dimension to the sense of Canadian identity, when Canadians begin to realize that the history of this Continent did not commence with Cartier, Cabot and Columbus, but goes back farther than the history of the British Isles and France.

## RECOMMENDATIONS

A special unit of Metis be immediately established to record the tales and stories of our people, utilizing video technology.

This unit to be jointly financed by all government ministries, agencies and so forth which are involved in making decisions which effect the Metis.

More specifically, when ministries such as the Ministry of Natural Resources are developing their land use plans, "public participation" should include video documentation.

Furthermore; such documentation be considered as a primary directive in developing such plans.

The Royal Commission on the Northern Environment, and similair commissions should expand their perimeters to include video data.

ARDOCK

Included in our submission is a video record of Wild Rice harvesting in the community of Ardock. Due to external restraints the quality of the presentation is limited. None the less it serves as a hands on example of the utilization of the video media.

No amount of accumulated written material could portray the relationship of the people to the rice. Granted we require a written record (enclosed herein entitled Ardock) for a variety of reasons. Yet video is the only means of recording an ab ebsco facts statement of our beliefs concerning resources.

This report, in its entirety, particularly portrays the efforts of Euro-Canadians to dominate resource development at our expense. This process must of course stop. Yet it continues, as reported in the story of Ardock. Viewing the video presentation can there be any doubts that the rice fields of Mud Lake belong to the Metis and Indians. What further "proof" is required?

If this statement (the video record) was intended to all areas of concern relating to resource development would there not be less confusion. Would not the decision makers of the north have a more viable base from which to operate. We feel they would once again be participating in the process of decision making in a manner which would utilize our cultural patterns in a manner comprehensible to Euro-Canadians.

## SECTION 4

PROCINCIAL LAWS AND STATUTES

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## PROVINCIAL LAWS AND POLICIES

### AN INTRODUCTION TO PUBLIC POLICY

By definition, public policy refers to goals or objectives which governments hope to achieve. Alternatively, policy can be regarded as clusters of related activities, organized around some general purpose.<sup>1</sup> In using either approach, it remains necessary to examine the concept of public policy by following government activities which are related to, and oriented towards, the resolution of some societal problem areas. In this capacity, we are concerned with the specific actions and with the reputed intentions which underlie development of provincial natural resources policy and its interfaces with Aboriginal people in this Province. Even the best of policy intentions have only rarely been effectively translated into reality and the mediating forces which promoted the shifts between states of conceptualization and implementation policy, and later, the factors influencing the monitoring and enforcement of policy, should be examined.

Since policy becomes the child of the current political system in operation, it develops as a highly structured beast in some ways, and almost whimsically in others. Assessing the strength of the goals pursued by the policy process becomes one of the most important analytic tools at our disposal. In addition, the route taken by decision-makers towards realizing these objectives can either involve the interaction of distinct options or can be the product of various interactive routes taken towards the same end. A demonstration of this principle occurred in the co-ordinated actions of the Indian Affairs Department and the Ontario Provincial Treasurer towards the sale of reserve lands about the Rainy River in the early 1900's.

Policy issues can also conceivably follow a single route or program in fulfilling several goals. Ontario's development policies in the western part of the province fulfilled equally the desires of numerous immigrants for land and facilitated the development of a profitable resource-extractive timber industry; this demonstrates the complementary aspects of the same policy. The same provincial policy functioned in a divergent and conflicting manner, however, by interfering with the indigenous peoples of the region, and their usufructuary rights to those lands, in order to make available large areas of ceded territory for the Province's exclusive control.

In developing resource policies towards the end of the 19th century, various influences came to bear upon the conservative tradition of the Ontario government as it formulated relevant legislation. The natural limitations imposed upon the use of the land by the Canadian Shield, limiting to distinct boundaries the availability of prime agricultural lands, affected the ways in which that land could be alienated. One of the earliest industrial activities in the Shield area--lumbering--fostered its own interests and fortunes by defending the powers of the province; the existing land-leasing arrangements with Ontario well-suited its purposes. Ontario also demonstrated consistency in attempting to avoid the imposition of a direct taxation scheme for as long as possible. It preferred to tax the resource industries indirectly to generate necessary revenues. It was on this basis that Ontario continued to justify the activities of the resource industries in the province, emphasizing their substantive contributions to the provincial coffers. This approach also permitted the Province to tightly control the ownership and distribution of those resources. However, this policy failed to isolate the Government from the influence of organized powerful lobbies. Nor was that ever the intent of government policy.

The focus of this paper will be upon Ontario's resource policies in the late 19th century, policies which extended almost to the present. They will be shown to have been based upon the principles of reservations, Crown ownership and leasehold tenure. In examining these elements, we will be making observations about the nature of parallel Federal policies and will refer to specific cases in which there arose problems--problems which were the specific products of these policies and which impacted upon the lives and societies of Aboriginal people in Ontario.

## SETTLEMENT, RESOURCE AND NATIVE POLICY IN UPPER CANADA

### 1. SETTLEMENT AND LAND GRANTS

Some of the first British land grants to be issued during the 1700's in what was later known as Upper Canada, were frequently similar to grants issued in Quebec and the Maritimes. While not always as vast in territory, the early Upper Canada grants greatly benefitted the early capitalists and speculators who sought to reap quick profits from the Indian cessions and the parallel influx of settlers. Many of these "entrepreneurs", as it turned out, presented themselves as the paragons of colonial morality and played the role models which dominated white society of the time. People in positions of authority and prestige--like the commanding military figure; General Haldimand, senior Indian Affairs officials; Sir William Johnson and William Claus, the Surveyor General; Samuel Holland and the Provincial Secretary; William Jarvis--all profited personally from the conditions surrounding land acquisition.<sup>2</sup> This group of grantees, as a case in point, affirmed the tradition of developing close class and familiar ties within the colonial power structure being built. Their elitist positions came to be operatively reinforced through thier executive government posts. Similarly, their positions of power within government and business circles promoted their status and credibility to levels which allowed them to influence the developing trend of white settlement policy as well as the manner in which Aboriginal people were to be treated. The question which remained, of course, was whether the land so freely manipulated by officers and representatives of the Crown, from the middle 1700's through the early 1800's, was in face a legally and morally acceptable situation for all parties in the territory--both Indigenous and White.

## (i) GROWTH OF BRITISH SUPREMACY IN TERRITORIAL CONTROL

From the earliest white presence, the "unoccupied" lands in the future Province of Ontario had been thought of in proprietary terms. The "waste lands of the Crown" were primarily valued as a source of raw material for the ongoing wars in Europe. The "new world" was also space in which the colonizing powers could divest themselves of their excess/unwanted populations.

As these lands began to generate real wealth for Britain, wealth largely arising from their natural resources, England began to consider ways in which to protect those valuable assets and prevent encroachment from the French and later the Americans. Settlement policy thus assumed another form, in serving as the mechanism to fulfill the foreign policy of Britain, and came to be equated with military and security needs of the colonies.<sup>3</sup>

With the 1760 French capitulation to the British, the French Governor Vaudreuil instructed Charles de Langlade that the British General Amhurst would be assuming control of the country. The agreement reached between British and French provided for military and civilian personnel to sell their property or be allowed to transfer it abroad. This concession was apparently tailored to cater to the demands of the wealthy gentry who established themselves over the years of the French occupation and had amassed sizeable estates.

The conditions of peace also sought to extend control over the Indigenous peoples of the region, including the halfbreeds of Michilimakinac, who were permitted to retain occupation of their property, furs, and enjoy trade privileges identical to those recognized in British subjects.

## GROWTH OF BRITISH SUPERMACY (cont'd.)

Objections and fears were expressed by people who were closely tied to the land--like the many mixed-bloods--that their freedom of movement and self-identification would be curtailed by the British. As one historian noted in discussing the activities of Charles de Langlade:

Raised on the frontier, and having spent his life in the wilderness, he was fond of the unrestrained freedom he enjoyed in common with border countrymen, and he and they probably dreaded more a change of laws and customs than of rulers...<sup>4</sup>

Nor were the Indian tribes and bands across the Province any less worried or incensed about the fate of their resources and lands. As one Ojibway Chief at Michilimakinac had said to Alexander Henry:

Englishman, though you have conquered the French, you have not yet conquered us. We are not your slaves. These lakes, these woods and mountains, were left to us by our ancestors. They are our inheritance; and we will part with them to no one.<sup>5</sup>

The host of White immigrants forebode evil times for the Indians and mixed-blood people as the petitions and representations to be made by them were to detail with the passage of time.

## (ii) THE CROWN'S RIGHT IN LAND

These fears did, in effect, come to be realized for laws and policies changed markedly over the years as a function of British constitutional law. The prerogative rights of the King arose from his pre-eminence and legal dignity of Common Law and were exercised in a fashion to generate revenue. From earliest time, this British right held that all gold and silver mines in the King's land, or in that of a subject, accrued to the Monarch. These rights, along with the right to tax, came to be tempered by Parliamentary controls over generated revenue and expenditures in the 1700's. English law then provided that revenues collected by the State, including those from the Colonies, belonged to the Monarch, but would be paid into a consolidated revenue fund to be used for the public purpose.<sup>6</sup> The fund created in 1760, by introducing a new system of civil lists,<sup>7</sup> allowed money to be voted for the support and operation of a Civil Government effectively being the controlling force over all colonial matters. British law, which was held to apply to the colonies, stated that the colonists brought parts of the Common Law with them which were suitable to their situation and condition. The Sovereign's relationship to colonial possessions so acquired was to own all ungranted land, being entitled to the same territorial and casual revenues as arose through prerogative right.<sup>8</sup>

The British Crown's right to own all ungranted lands was similarly the law of France. Thus, when Britain assumed control of the colonies by means of the 1760 Capitulation, it came to apply that rule to all of the territory under its domination. However, the 1763 Proclamation, which subsequently assumed control for criminal and civil law within the Province of Quebec, severely displeased the French inhabitants. It had eliminated the Civil Law in Quebec, in favour of British Common Law. In order to remedy that dis-

## THE CROWN'S RIGHT IN LAND (cont'd.)

satisfaction, the Quebec Act of 1774 was passed<sup>9</sup> to allow matters of controversy respecting property and civil rights to be decided by French Civil Law in that Province. While 'Indian' rights were unaffected, as they were previously outlined by the 1763 Proclamation, the Quebec Act allowed a solidification of Crown control over this territory, in face of American settlement expansion within the Ohio Valley.

## (iii) PROCLAMATION OF 1763

As a pre-Confederation document, this far-reaching British proclamation was instrumental in providing the Crown with a legitimized basis for control over and responsibility for "Indians and Indian Lands". While it was initially designed as a temporary measure to insure colonial security, the Proclamation implied that Indian title to land would be curtailed. It offered the Indians neither the fee from the reserved lands--which was held by the King,--nor true legal title. Only the right of 'quiet possession' and 'freedom from disturbance' were forwarded as Indian tenure--not the elemental property rights to the land. That concept would have been alien to the Indians in any case. And since British Common Law held that the transfer of a usufruct could only be allowed by its beneficiary, to its owner, Aboriginal (usufructuary) rights could only be surrendered to the Crown.<sup>10</sup>

In reserving Indian "hunting grounds" of the interior for the free use by Indians--beyond colonial and Rupert Land boundaries--all settlement purchases, land grants, and trading licences were reserved to the Crown under its exclusive authority. Military alliances still were of such value that Britain could hardly seek to dispossess the Indians in one fell swoop by creating antagonizing restrictions. The Crown felt it did require some measure to curtail continuous trespassing of settlers on Indian lands, and uncontrolled sales of Indian lands to whites, where potential Crown revenues were lost.

In establishing long-term policy, the Crown alone became legally able to control disposition of lands not reserved to the Indian Nations, making itself the exclusive real estate agent in the British colonies.

## PROCLAMATION OF 1763 (cont'd.)

In 1775, instructions were issued to Gov. Guy Carleton, further delineating the conditions and policies operative under this exclusive franchise. A classically bureaucratic administrative structure, and a mechanism to deal with future cessions of Indian lands, were formally established.<sup>11</sup> The sovereign claimed ownership of all ungranted lands and ceded Indian lands, with prerogative rights and privileges similar to those of England--barring some exceptions in Quebec. Revenues derived from these lands were to be disposed of for the benefit of the colonies, but were to remain beyond the control of the colonies or the local Assemblies for 75 years more.

Revenue control was first transferred from the British Parliament to the provinces in New Brunswick, in 1837.<sup>12</sup> In exchange for supporting the costs of administering the civil government of the Province, New Brunswick, was given control of disposal of the proceeds from all territory and resources. The Province of Canada, created from Upper and Lower Canada in 1840,<sup>13</sup> followed suit wherein a consolidated revenue fund was created along with a civil list. Some reservations initially placed on the Province's discretionary rights were later removed, and provincial control over territorial and casual revenue equal to those exercised by the British Parliament in England, was allowed.<sup>14</sup>

From this point to Confederation, all Provincial Crown Lands, while standing in the name of the Queen, were for all intensive purposes the public property in the provinces within which they lay. Control of those revenues however, continued to be maintained by the executive administration of the Province, with only nominal input being provided by the Legislatures.<sup>15</sup>

## (iv) REGULATION OF SETTLEMENT, LAND GRANTS &amp; INDIAN SURRENDERS

During the late 1700's, a profitable large-scale real estate business was functioning in the Province of Quebec (Upper Canada), without the benefit of any state controls or ongoing monitoring. There were in operation numerous private schemes to obtain and make profits from the sale of Aboriginal lands and resources-efforts which were facilitated by mismanagement of the alienated Home Government. At the same time, there were only a few unsuccessful and fainhearted attempts made by the Province of Upper Canada to curtail the extraordinary speculation which surrounded private land acquisition.<sup>16</sup> Since the securing of Indian lands was, according to the 1763 Proclamation, recognized only by deeds of surrender to the Crown, or to private individuals subject to Crown ratification, provincial control of this process remained "ultra vires", or, beyond their power until the 1830's. Permission was routinely secured from the Home Government in Britain, allowing Indian lands to be purchased on a massive scale by private individuals, and great profits to be reaped by them.<sup>17</sup>

Added to this confusion was the flood of immigrants and loyalists and returning military to Upper Canada to occupy recently surrendered Indian Territory.<sup>18</sup> By 1784, more than 10,000 American expatriates had settled west of the Ottawa Valley.<sup>19</sup> The first major wave of settlers from N.Y.'s Mohawk Valley had located themselves primarily around the Niagara Peninsula before and during the Revolution. After the Treaty of Paris, they were joined by the UEL who maintained their allegiance to the British Crown particularly since their resettlement was sweetened by various forms of land grants permitted to civilian and ex-military personnel. This pressure on the Aboriginal people grew so intolerable that Missassauga-Mohawk alliances were being considered to form a base of Aboriginal solidarity and withstand the white encroachment.<sup>20</sup>

## REGULATION OF SETTLEMENT (cont'd.)

The 1789 appointment of the Land Boards by the Quebec Land Office Department was an early measure to impose some co-ordination over and control of this wildly speculative land appropriation system. It was also an attempt to reaffirm the Crown's mineral and forest reservation policies over all non-agricultural land grants-rights for which grants could be issued only by special Order-in-Council. The operation of the Land Boards was designed to receive applications, over a 2-year period, from people wishing to immediately settle on Crown "waste" lands, facilitate access for increasing UEL demands, and set apart new Districts when required for settlement. Any effectiveness of the Land Boards, however, was dependant on the continued acquistion of Indian lands.<sup>21</sup>

Settlement measures were being designed to provide Loyalists locating in Upper Canada with status equal to settlers locating in Nova Scotia and New Brunswick. Encouragement was provided by issuing free and common soccage on land grants, with remission of quit rents for the first 10 years-conditions which were outlined in the 1791 Constitutional Act<sup>22</sup> creating Upper Canada from the Province of Quebec. Any petitioner would be assigned a minimum of a 200 acre grant, having only to make "minor improvements" on that land. A position of prestige or higher rank in civil or military life insured one of a much larger grant acreage.<sup>23</sup>

However, the entire system of attempted reform proved to be inefficient and failed to impose any real force or state control. Land speculation on granted lands continued for 50 years more as a valid business, where people like the Hon. Robert Hamilton could manage to easily secure for himself 100,000 A. of land supposedly destined for small-scale settlers.<sup>24</sup> Large tracts continued to be given away on a wholesale basis by the Crown to Loyalists, retired and

## REGULATION OF SETTLEMENT (cont'd.)

active military personnel, seamen, magistrates, barristers, Executive Councillors and their families, Legislative Councillors and their families, and as clergy reserves.<sup>25</sup>

In spite of these free-wheeling speculative tradings in land, effectively unimpeded by the state, and facilitated by the advantage taken of Indigenous people in obtaining cheap land cession and surrenders for the Crown, the rights to fossils, mines, minerals & timber continued to remain vested in the Crown as a condition in each lease of grant-by virtue of Lord Simcoe's Proclamation.<sup>26</sup>

With the influx of white settlers from the USA and Europe, the existence of Indian-military alliances with the Crown soon became inconsequential. White population was growing fast enough to supply a stable and easily administered military force for colonial security. After the conclusion of the 1812 War, Indian security in Upper Canada seemed rather perilous as shifts in methods of dealing with them took place. From being the "brothers" and "allies" of the British Crown prior to 1770, Indians gradually became the "Subjects and Children of the King of England"<sup>27</sup> and then formally the wards of the state.

This shift in focus became even more pronounced after 1830, when the administration of the Indian Department reverted back to civil control from the military. In reorienting their methodology of dealing with the Indians of Upper Canada, an accompanying growth in paternalism and exercise of control over Aboriginal lives was exercised by the Indian Department and the colonial government. The development of formalized ties between the executive Committee of the Executive Council of Upper Canada, and the Indian Department, was considered by both parties to be of extreme importance to the interest of the Province, so

## REGULATION OF SETTLEMENT (cont'd.)

..that there should be the closest of connection and most confidential intercourse, between this Government and that part of the Indian Department which is attached to Upper Canada.

These types of associations between levels of Governments became operatively necessary for the Province because the Crown lands obtained from the Indian surrenders came to be valuable sources of revenue, the disposal of which had to be regulated. So attractive was the lure of these assets, that the Legislative Assembly began to covet their control. Since the ultimate fate of Indian lands, both ceded and unceded, remained with the Home Government until 1830, the schemes hatched by the Assembly to circumvent the Crown's control proved to be ineffective. The real power of the Executive Committee was frequently exercised in vetoing any attempts by the Assembly to usurp their power. The seeds of dissent which began to germinate then, eventually bloomed as Provincial-Dominion jurisdictional conflicts after Confederation.

So, until the outbreak of the 1873 McKenzie Rebellion, badly needed land reforms in the Province had no chance to materialize under the constant scrutiny of the Executive Committee. Personal profits continued to be made by persons of power, largely through distribution of the "landed gentry".<sup>29</sup> While this situation demonstrated a low standard of morality, it set the tone for future methods of land disposition, leases and grants in Ontario. In the late 1800's, shifts away from personal small-scale patronage took place, in favour of institutionalized patronage by the state for larger-scale industrial and manufacturing endeavours within Ontario. The rationale for that movement was based on the claim of the necessity of attracting investments to the Province.

## REGULATION OF SETTLEMENT (cont'd.)

In 1838, under a new Lands Act<sup>30</sup>, land grants came to be curtailed and were only issued as legitimate land grants to UEL settlers or people specially entitled to land through Order-in-Council or regulations. The Act also ceased to distinguish between areas which had been maintained exclusively as military settlements so that free grants could be chosen from any available lands open within any District. The 1839 and 1840 Acts<sup>31</sup> were then passed under the premise of protecting the unsettled Indian territories against trespass and damage by classifying them as "Crown Lands." Things still remained far from well regulated, one proof of which was the appointment of a Commission, in 1839, to examine and report upon the state of chaos existing within the Public Offices of the Surveyor General. And expressing his opinion regarding the past operation of the land granting system, the Commissioner noted:

In conclusion, I cannot help remarking that the system upon which lands have been granted was the greatest prostitution of a Sovereign's bounty ever practised in any country. The intentions of the Sovereign will evidently appear from the instructions given for settlement of the country wise and guarded, but the system pursued was corrupt.<sup>32</sup>

Gradually, the sizes of land grants became reduced, lease conditions became more restrictive by requiring execution of "improvements" and immediate settlement on the grants, and further claims for free grants would not be entertained except for first time actual settlers.<sup>33</sup> While often unenforceable, these measures at least attempted to curtail the unregulated assembly operations of private real estate promoters. The Ontario free grants system inaugurated in 1868<sup>34</sup> had, 31 years later, settlers located on over 4 million acres of the Province's more remote areas. The principle of the French seignorial system was thus continued in Upper Canada, where the granting process required "the residence of the grantee or purchaser on his land and the clearing and improvement thereof",<sup>35</sup> on pain of forfeit. This element of improvements to the land later proved to be of significance to the Province's Metis population. For after Confederation, the Ontario Government frequently refused to recognize the significant improvements 'half-breeds' had made to their land, and as will be indicated later, began to legitimize their eviction from areas long-occupied and used in traditional ways.

## (v) INDUSTRY - SETTLEMENT CONFLICTS

From 1812 until 1850, the headlong rush of settlers to Upper Canada aimed itself primarily at the rich agricultural lands about the Great Lakes.<sup>36</sup> By 1850, this triangle between Lakes Huron, Erie and Ontario had largely been settled and cleared, allowing a rapid growth of industrialization to occur in this area. This pattern, commencing during the 1840's in the USA, included railroad construction, mining and industrial plants fired by wood, locally-based hydro-power, and later, coal shipped from Pennsylvania.

The Ontario Government, fearing a decline of the Province's immigration, tried to facilitate access for settlers to the less populated regions of the province. However, these areas also contained little high-quality agricultural land. By passage of the 1868 Free Grant and Homestead Act,<sup>37</sup> and public territory could become appropriate for purposes of settlement and agriculture, and free grants to settlers could be issued for them. By this Act alone, Ontario caused 46,000 A. to be settled in 1868 - figure which was surpassed by the 4 million Acre mark in 1899.<sup>38</sup>

Still, between 1861 and 1901, there was substantial immigration from Ontario to the USA of settlers who were dissatisfied with the difficulties they experience in obtaining good agricultural lands. The USA also offered more attractive incentives than did Ontario. By 1901, estimates indicate that over 2½ million people had left Ontario for southern and western climes.<sup>39</sup>

But aside from promoting settlement, the 1868 Act demonstrated an inherently conflicting provincial policy direction. The Act was instrumental in limiting the extent to which the agrarian influence of the settlers could interfere with the developing economy of resource-based industries of the Shield. Just as Indian reserves were traditionally shunted into occupying the poorest land of a region, where their presence would not interfere with the progress of settlers, so too were settlement townships confined - by Sec. 4 of the Act - to areas which would not be of direct value to the mining or lumber industries. Mineral bearing and pine timber lands had been excluded from the Province's

## INDUSTRY -SETTLEMENT (Cont'd.)

power to expropriate these territories ofr settlement. In addition, the Crown retained control of all timber not immediately necessary for home building and all "gold, silver, copper, lead, iron and other mines or minerals" in all lands granted for settlement. In later years, as will be demonstrated, the rights to water power were also divorced from the land so that theoretically, no natural resources could, without explicit consent, pass into the hands of private landholders in the Province.<sup>40</sup>

These reservations regarding appropriations of land were likely made to deal with competing interests in the Province. There had already arisen occasions where conflicts were generated between settlers and Aboriginal residents on one hand, and resource companies on the other. During the 1840's and 1850's for example, the increasing spread of settlement appeared to the lumber industry to be a direct threat - especially since Provincial policy publically encouraged expanded settlement and was likely to curtail easy and literally free access to vast stands of forest. The companies complained that there existed many speculative farmers who stripped lands of timber and moved on, while the genuine farmers were responsible for uncontrollable fires which spread onto the licensed areas held by the companies.<sup>41</sup> In calling for a land classification policy, the lumbermen wanted to keep the settlers distinct by distinguishing between arable and non-arable lands. The lumbermen utilized the "favoured-industry" argument in stressing the importance of a viable lumber industry to the revenues of the Province.

Shifts in provincial attitudes and policies started to occur, so that by the 1870's there was a reorientation of Ontario politicians to favour, almost exclusively, the expansion of the resource extractive industries over the revenue-draining settlement activity. With the 1896 Conservative Party defeat, and the election of the Federal Liberals under Laurier, the manufacturing industry was given a serious boost in western Ontario and began to diversify.<sup>42</sup> Large scale agricultural settlement in any case, by that time had shifted to the Prairie Provinces because of their more liberalized grant programs for settlers.

## (2) EARLY CONCEPTS AND MECHANISMS ESTABLISHING ACCESS TO RESOURCES

Ownership of natural resources in British-controlled colonies was traditionally vested in the Crown. State attempts to regulate their use was exercised through Statute and Order-in-Council - according to the prevailing provincial policy interest. While early settlement and lands speculation activities made incursions upon the Crown's traditional ownership of land and resources, those Provincial rights remained intact, except in cases where specific grants to those resources were issued. The Crown's right in forests, for example, were proprietary. Homesteaders in the colonies' frontier lands, therefore, had no prior rights to any of the forest resources beyond their immediate building needs.<sup>43</sup>

In affirming the Crown's policy of creating mineral and forest reservations for its own future revenues, the Province of Quebec's Land Office was, in 1789, generally instructed to retain lands valuable to the state for all purposes other than agriculture. Instructions issued to Lord Dorchester in 1791, on the formation of Upper and Lower Canada, were clearer in the sense of directing him to retain lands which contained precious metals and timber, base metals like lead, copper, tin and even coal. Thus began a new direction in policy where bureaucrats and politicians were to reinforce the power of the state by with-holding from private ownership anything thought to be of "singular advantage of a common and public nature".<sup>44</sup>

The Crown also retained, in public domain, all riparian rights. In keeping with British Common Law, neither the state nor an individual possessed authority to restrict the flow of a natural water body. The Crown was obliged to protect the common use of water against monopolistic practices of any riparian owner. In the case of Non-Navigable Waters, customary ownership of lands bordering a non-navigable stream implied ownership in the bed of the stream "ad Medium" - or, to its mid point. This tradition did not simultaneously convey ownership of the waters on the surface - only the right of "usufruct", or the opportunity of access to, and use of it, on an unexclusive basis. Similar rights of "usufruct" of neighbours up and downstream, and on opposite banks, could not be impeded by this right. Furthermore, in passing over property privately held, water could only be used for purposes of passage and did not itself

## EARLY CONCEPTS AND MECHANISMS (cont'd.)

become private property.<sup>45</sup> These basic definitions of rights will be referred to again when we discuss the implications of hydro-electric power generation on developing provincial resource policy and thus on the province's Indigenous people.

As Upper Canada's immigration increased, the colonial government discontinued its policy of making waterpower reservations to insure the operation of local mills, and to protect the province from speculation. Waterpower was regulated through the 1800's only by the common law of riparian ownership in which water was conditionally attached to the land. This area of concern was perceived to be a local matter until the end of the 1800's. There remained many sources of unused power across the Province and transmission capabilities had not yet been developed to distribute any generated power.<sup>46</sup> Only towards the end of the century was there a revival of interest in the concept of reservations for the public benefit, for water power began to look attractive as another technologically exploitable commodity.

Nor was the Crown's tenure system with respect to forests altered by an 1826 timber regulation, implemented by the Upper Canada Executive Council. The Crown continued to retain ownership of the lands on which cutting licenses were issued. It was made necessary for authorizations to be secured by interests desiring to cut timber on a commercial basis - authorization which remained vital revenue sources beyond the control of the Legislative Assembly.<sup>47</sup> It was even suggested by the Bagot Commission, that substantial revenues could be generated by having Crown Land Agents issue licenses to cut timber on Indian reserves, supposedly maintaining those revenues in the Indian Trust Fund.<sup>48</sup> This measure was evvected by the 1850 Act.<sup>49</sup>

Only by maintaining complete hold on the legal title to the territory's resources could the Province continue along a path towards revenue maximization. Of great significance was the benchmark of early provincial public policy against which other actions seemed to be judged. This standard was the was in which agricultural settlement was promoted and developed. Timber companies could be manipulated to cut and clear

## EARLY CONCEPTS AND MECHANISMS (Cont'd.)

the lands in preparation for the onslaught of settlers. But the lands had to first be secured under Crown Control. And in that capacity, the Indian Department tended to be most obliging in facilitating surrenders of the specific lands the Province desired. The progress of treaties and cessions, therefore, flowed northward and westward as exploitation of the resources was felt to be necessary, and as the numbers of settlers justified further purchases. No restrictions on expansion were felt to be necessary as Upper Canada encouraged establishment of western settlements to extend the frontier of the province. The absence of any formal western border eased this process and permitted the constant relocation of Indians to remote and then perceived an undesirable acreage. Little attention was given, by either the Provincial or the Home Governments, to the social and cultural disruption of Aboriginal communities by this exercise of policy - other than to make placating noises which were channeled into programs of "civilization", (acculturation) and unilateral enfranchisement of the Indians and their mixed-blood relatives.

In effort, a general policy was operating in which through Crown ownership, licensed rentals of land provided timber companies with liberal access to forests, healthy returns for the Crown were generated and cut-over lands unavailable which could ideally be repossessed from the lumbermen and granted to the settlers, free. When necessary, the Provincial Crown Land Department could always make available to settlers further unoccupied lands, obtaining additional Indian surrenders through the Indian Department as needed.

Only in the mid-1800's were the interests of the settlers scared to take a back seat in influencing policy, for Province began weighting its decisions to favor the developing and profitable industrial expansion.

## 3) PRE\_1867 LAWS &amp; POLICIES: MECHANISMS TO REDUCE NATIVE CONTROL OF LAND

In approaching an understanding of the effects that developing provincial resource policy had on Ontario's Aboriginal people, it is vital to highlight specific elements in the history of Aboriginal related legislation of Upper Canada. In discussing this legislation, the development of colonial administrative perceptions will be shown to reflect the striving of whites for economic and political sovereignty over British North America - at the expense of the indigenous people.

As we have previously mentioned, the 17th Century British Indian policy of isolationism curtailed the Crown's associations with Aboriginal people to developing a profitable fur trade and expanding its territorial control. Cultural independence and segregation were the operative policies wherein inter-racial mixing or marriage was not officially sanctioned and where tribal Indian territories were maintained as sovereign political entities.

Early French policy, in contrast, emphasized the assimilative approach whereby religious conversions, settlement policy, cultural mixing through intermarriage, trading patterns and military alliances were all combined in attempts to produce a more socially acceptable administrative response to the indigenous population.<sup>50</sup> While the Indian allies to the French remained largely segregated in tribal territories, they allowed the French extensive utilization of their fur resources. The large mixed-blood population which resulted often chose to adaptively assimilate itself into Indigenous communities. So effective was this "half-breed" response to the North American environment that the British were often able to make no distinctions between the "Half-breeds" and the Indians.

Early British administrative power was largely confined to economic domination of Indian lands on which there existed HB co. posts and military forts. However, political dominance soon took precedence over economic relations with the Indians as the Aboriginal political power wanted after the 1812 war.<sup>51</sup> The consequent development of legislation tailored to regulate the activities of the Indians was, by nature, usually incremental and unenforceable. This was most

## PRE-1867, LAWS &amp; POLICIES: (cont'd.)

evident prior to 1850 with the efforts to control Indian lands being sought after by both Colonial and Imperial administrations.<sup>52</sup>

Although Indians were recognized by the Proclamation of 1763 as possessing a traditional "special" status, Imperial laws soon came to exert control over most aspects of their lives. After 1803, the whole range of Upper Canada's civil and criminal jurisdiction began to be applied to the indigenous population and the "Indian Country".<sup>53</sup> Increasing numbers of statutes and Orders-in-Council were passed to control Indian activities respecting liquor, land holding systems, rights to negotiate contracts, run for public office, freedom to hunt, fish and trap unhindered, etc. (see listing in the Appendix). This situation arose in spite of many Indian protestations that they were exempted from British law as a product of the treaties they had signed and/or because their aboriginal laws and customs took precedence.<sup>54</sup> It also reversed the perceptions of senior colonial officials rules had, only 35 years earlier, maintained that the Indians "can not be brought under our Laws for some centuries..."<sup>55</sup>

So the application of civil and criminal legal systems to the Indians and their mixed-blood relatives - by legislation and jurisprudence which derived from British Common and French Civil Law - remained a controversial issue for many years. It still maintains itself as a source of conflict today, particularly with respect to the unilateral imposition of restrictions on Aboriginal property rights and on unhampered access to traditionally utilized land and water-based resources.

In 1842, fiscal power over Indian Affairs was transferred to the Imperial Government from the colonial administration, against the wishes of the Executive Committee.<sup>56</sup> The nominal control over disposition of these lands still remained with the province though, consequent to the 1840 act of the Union.<sup>57</sup> This action was taken by the Colonial Office in London to implement some co-ordination which would reduce the monetary responsibilities of the Crown. It was perceived that by 1851, payments to Indians could be vastly cut back, and mounting pressure on the British Treasury relieved.<sup>58</sup> Beginning with the elimination of the

## PRE-1867, LAWS &amp; POLICIES: (cont'd.)

American Indian allies to the Crown as eligible recipients of annuities, as was initially suggested in 1838, and by continuing to radically diminish the system of distributing "presents", to Indians in Canada, a direction which had first been taken in 1775,<sup>58,59</sup> the Imperial Government could successfully begin divesting itself of an interest which was no longer to its economic advantage.

## (i) PRE-CONFEDERATION INDIAN POLICY AND IMPLEMENTATION OF "CIVILIZATION" PROGRAMS

The foundation for post-Confederation resource development policies was well laid by the early introduction of programs for the "Civilizaion of the Indians". Through their operation, these programs came to reflect the underlying rationale for the continued alienation of Indian lands. The combined factors of obsolescent military alliances with the Indians, and administrative shift of the Indian Department to civil control and the influence exerted on the Colonial Office by various religious philanthropic societies and the Executive Committee, all seemed to indicate the necessity for a new approach to deal with the Aboriginees.<sup>60</sup>

Pressures directed at the British government to shift both administrative and monetary control of Indian matters to the Province emansted from various interested groups - involving people whose representations were sometimes handable and sometimes quite questionable. One constant approach, which was later refined by the Methodist Church, amounted to constant haranguing the Colonial Office for being callour and for rejecting consideration of Indian representations. One saugeen Indian petition, for example, which had first been sent to Governor Edmund Head, was ignored by the Home Government because it allegedly was "unrepresentative". The petition had strongly protested the unilateral dismissal, by Capt. Anderson, of Saugeen Chiefs without the Band's consent, as well as claiming that the written conditions in the treaty<sup>61</sup> differed from the surveyors maps of the Saugeen. The petition also disclaimed the permission given by Anderson to unauthorized Indians to sign agreements on behalf of band. The Methodists took up this case as a 'cause celebre' and suggested that the heartlessness and lack of understanding demonstrated by the Colonial Office could be remedied, were this control placed in the hands of a provincially controlled Department. However, other interested parties observing this unfolding story contended that the Methodists were aiming to serve their own interests<sup>62</sup> - for should their representations be acted on, the Methodists seemed assured of receiving very liberal provincial grants for clerical industrial farms.

Nevertheless, a new approach to Indian policy was in the process of being formulated. In accomodating the above-mentioned pressures, and in seeking to insure its continued existence, the Indian

## PRE-CONFED. INDIAN POLICY: (cont'd.)

Department put together a program to "civilize" Indians, since they were perceived to be "irresponsible children" incapable of supporting themselves. The intent was allegedly to "redeem Indians from their state of barbarism", and to morally and socially assimilate them into peaceful and civilized village life together with whites.<sup>63</sup> Under an agrarian system, they would be provided with the support services for religious and educational improvement given training in some trades, and would be wooed away from a nomadic lifestyle so foreign to white sensibilities.<sup>64</sup>

The role of the church in this process was a significant element so much so that inter-denominational rivalries were sparked in efforts to control the Aboriginal "education" programs. Since the Church was instrumental in aiding the Province develop Indian "civilization" programs, where a successful implementation of this policy depended on large-scale cessions of Indian land, public attacks by the Protestant Church on the Catholics came to be institutionally supported by the Upper Canadian press. Obviously, much valuable real estate was at stake and massive land grants to the "representative" denomination was the pot of gold being sought. Accusations of tyranny, were daily published in this period. The Catholics were able to receive from the Government "justly acquired Protestant lands", especially in light of the known past associations between the Catholic Church and "half-breeds", was a situation that Anglo-Canadians were encouraged to resist by all means.<sup>65</sup>

However, the more realistic purpose of this assimilation scheme was to reduce in number, and as quickly as possible, the size of the Aboriginal population for which the government would be fiscally and legally responsible. Equally important, the lands released by the Indians, after their removal to central regional townsites, would be liberated for provincial settlement and would promote needed revenue for the Indian Department and the provincial treasury.<sup>66</sup>

## PRE-CONFED. INDIAN POLICY: (cont'd.)

Recognition, by the mid 1830's that this approach was probably doomed to fail,<sup>67</sup> was witnessed by the various ways in which Indians were exploited by settlers, the clergy, businessmen and even colonial officials. Generations of deep-seated conflicts, in the Aboriginal people, between this inappropriate agrarian approach and their traditional land-use activities, insured that such a program must collapse. The plethora of near-fraudulent treaties, surrenders, and pressures exerted on the Indians to this point, and those connected with the early "civilization" policy, have been well documented and need no further elaboration.<sup>68</sup>

It was also becoming a less desirable policy at this point to keep indiscriminately pushing the Indians westward in the hope that they would eventually disappear. The Indian Department, which had to expand in size to maintain a semblance of administrative control, faced the need to secure extra sources of revenue, in an era when fiscal restraint was being stressed. Furthermore, a loss of arable lands in areas which could later be granted to settlers was feared as a possibility, should the sites of Aboriginal occupation not be controlled. Indian movement had to be regulated and their confinement to unusable waste lands effected.

So a variation was tried within the disjointed civilization efforts, one directed largely at isolating and separating the Indians. It proved to be an equally dismal failure, as will be demonstrated. The prevailing attitude which suggested that containment of Indians in remote areas where they would be established as sedentary agriculturalists was promoted by senior bureaucrats like Francis Bond-Head.<sup>69</sup> "The greatest kindness we can perform towards these intelligent, simple-minded people", Bond-Head wrote, "is to remove and fortify them as much as possible from all communication with the Whites."<sup>70</sup>

In trying to institute a policy of segregation, and simultaneously make accessible the additional Indian lands being eyed, a pilot project was launched in 1835. Manitoulin Island was to be used as a major settlement area to which Indians from the USA, Upper Canada and the Northwest would be shipped and isolated, and where administration by white

## PRE-CONFED. INDIAN POLICY: (cont'd.)

Indian Department officials would continue.

Two treaties were therefore made in 1836,<sup>71</sup> between Bond-Head and the Ottawas, Chippewa and Saugeen Chiefs, where the tribes were given exclusive ownership to Manitoulin. In return, large tracts of land were surrendered to the Crown for disposal, the monies to be held "in trust" as was usually the case. Initially, 30 Indian families came from Upper Canada and a number relocated from the USA forsaking their yearly American annuities in the process. Manitowaning was chosen as the prime townsite by Captain Anderson, primarily because it was a convenient administrative center.<sup>71</sup> What was not anticipated by the early policy planners was that most Indians from the aforementioned tribes would refuse to locate on the Island because of its inaccessability to game and resources.<sup>73</sup> There was also no great attraction to agriculture for the Aborigines as the mainstay of their economic system. Furthermore, few Indians relished the potential conflicts which could result from the intermingling of politically incompatible tribes.

Over the next 20 years, increasing white settlement pressure caused land values to escalate in the region and the availability of good agricultural land to decline. In addition, the 1839 and 1840 Indian Land Protection Acts<sup>74</sup> were virtually ineffective, a commitment to serious enforcement never having evolved. The promises given the Indians respecting their exclusive possession of Manitoulin came to be challenged by Whites who cast covetous eyes towards the Island's farm lands. The Legislative Assembly of Upper Canada, and the Indian Department, at last recognized by 1857 that their "civilization" programs across the whole province were not working, just as the 1847 attempt before it to incorporate the Indian tribes in Lower Canada had failed.<sup>75</sup> The incidence of Indigenous people profitable pursuing agriculture was not increasing markedly.<sup>76</sup>

So in the case of Manitoulin, a variety of pressures came to be exerted on the Indians by the Government, to make them more amenable to a surrender of their titles and to encourage their settlement on small

## PRE-CONFED. INDIAN POLICY: (cont'd.)

reserves. It was more than coincidence that at this point in time, surveys of the Island were commissioned, in spite of their being opposed by the Indians; lumber and cord-wood sales to whites were restricted, seized and threatened with license imposition by Indian Department personnel; the Indian fishermen were being intimidated and here also were threatened that licenses might be imposed, or closure invoked; and government-licensed white fishermen were encouraged to fish commercially in Indian waters without the residents' permission. The Upper Canadian Government perceived itself to be the owner of all resources, and in representing the Crown's interest, proceeded to determine resource policy on that basis. Profits which were secured from permits issued to white operators more than adequately justified to the Government a legitimate dismissal of Indian complaints.

## (ii) ALTERNATIVE APPROACHES TO ASSIMILATION

Given the poor results of the separation policy, as exemplified by the Manitoulin experiment, additional legislation was passed to bolster the Province's flagging administrative control over Aboriginal matters. Along with the 1850<sup>78</sup> Indian Protection Acts, the 1857 Civilization Act<sup>79</sup> consolidated the Province's Aboriginal legislation, forming a foundation upon which post-Confederation Indian and mixed-blood policy would be built. As the Imperial Government was now in the process of transferring all Indian obligations to the Province of Canada,<sup>80</sup> the Civilization Act was passed with the alleged purpose of erasing all distinctions between whites and Aborigines. Any distinctions between mixed-bloods and Indians, except with respect to property ownership, were to be removed. Upper Canada was apparently following in the steps of Lower Canada which had in 1851 passed an amendment to redefine the term "Indian", and had for the first time distinguished between "Status" and "Metis" people.<sup>81</sup>

However, by creating a separate legal class of people out of the Aboriginal people, and by confining them on reserves, with the Crown assuming the role of guardian by virtue of the 1839 Crown Lands Protection Act,<sup>82</sup> this aim would seem to have been undermined from the outset. Creation of a statutory means to determine who was Indian, and on what basis that classification could be lost, clearly reflected the extreme measure the Province would take to reduce the Indian Department's financial burdens. This Act became one of the first links in a chain of subsequent legislation whereby unilateral Department determination could be implemented to assess who would be enfranchised, on what basis, and with what degree of compensation.

However, there was a great deal of uncertainty which surrounded the initiation of this new policy direction. In commenting on this confusion, as reflected by the phrasing and application of this Act, a member of the Legislative Assembly observed:

...it was not with the Indians they had to deal but with people having as much European as Indian blood...They should be dealt with like other people. This Bill treated them on the supposition that they were now slaves by providing that on being ascertained to be able to read and write, etc., they should have their names inserted in the official Gazette as having been enfranchised. 83

## ALTERNATIVE APPROACHES TO ASSIMILATION: (cont'd.)

The Bill was seen by various Members to be a "poor paltry measure founded on narrow views, and in total ignorance of the state of the Indian tribes," largely because it was created by the heads of the Indian Department and the Imperial Government whose priorities did not match the stated policy. Even the Hon. William Robinson, of the 1850 treaties repute, disagreed with the Bill's refusal to allow Indians free simple title to their lands - demands which had been forthcoming from the Mississauga from the 1830's.<sup>84</sup> "It was foolish to treat them like children, enfranchise them, and not consult with their Chiefs," said Robinson, "particularly since in the past they proved themselves at least as capable of managing their own affairs as members of the Assembly."<sup>85</sup>

Evidence would seem to indicate that in this pre-Confederation decade, the Government of the Province of Canada was consolidating a policy whose efforts would undercut the integrity of mixed-blood and Indian societies. By Statute, these people were to be further isolated from their social, cultural and economic ties to the land and to a non-renewable resource base that had long been theirs to use freely. By stipulating that property ownership or possession of assets over £25 permitted a person to be automatically enfranchised, (providing minimum conditions were seen as met) a non-violent, but nevertheless quite unilateral policy was about to be instituted to rapidly reduce the freedom and increase the numbers of the unrecognized indigenous population. This process was to proceed under the namesake of enlightened assimilative techniques.<sup>86</sup> And while the Act was shown to entail no real mechanisms for achieving its stated purpose of "civilization", a flood of other Statutes and Orders would soon be launched to eliminate that weakness. The 1860 Act which made the Commissioner of Crown Lands the Acting Chief Superintendent of Indian Affairs was just such a case in point.<sup>87</sup> As the state's intention to control all of its lands crystallized, and as measures to contain/eliminate the Province's Aboriginal population became more efficient, it became obvious that the velvet glove was about to be shed.

## II. CONFEDERATION & JURISDICTION - EFFECTS OF PROVINCIAL BORDERS

- (1) EARLY POLICY PERSPECTIVES
  - (i) POLICY AND RESOURCES

As early white economic perception of the utility of natural resources traditionally maintained that they were the "free gifts of nature." This concept was highly touted within the ongoing development dialogue of the mid-1800's. It is a perception whose axiomatic truth is only now beginning to be questioned by developers and legislators. While early promoters, extractors and refiners of resources did not have to directly pay for their use, the indirect costs were born by the ecologic system as a whole. It is realized today that resources, as products of natural long-term processes, are available for use to "create" human wealth and satisfaction, but with specific and often calamitous costs.<sup>88</sup>

Assessments of development projects from the economic perspective usually have tended to balance the natural resources against the capital resources. Capital resources - the manmade aids to production like machinery and technology - have been seen as tools to facilitate exploitation of the natural resources, and hence, improve standards of living by increasing access to goods and services.

The call by John Stuart Mill in 1848,<sup>89</sup> to more sanely manage natural resource exploitation through qualitative, as well as quantitative criteria, was not taken seriously in Canada as late as 1972. Early perceptions of the effects of resource scarcity in Ontario, as elsewhere, promoted an expanded development frenzy. Arguments concerning society's eventual limits to growth were recognized quite early in Ontario's industrial development, but they were perceived to be irrelevant. The apparent limitlessness of the natural resource feedstocks were too overwhelming for government or industry to stop and consider the pertinence of growing social and environmental costs.

It is these philosophic perceptions regarding the nature and value of resources, and what was considered legitimate access to them, which were systematically translated into law by enacting the BNA Act. This legislative area is therefore what we must now seek to explore.

## (ii) THE BNA ACT AND DISTINCTIONS BETWEEN RESOURCE OWNERSHIP AND CONTROL

Through much of Ontario's history, there existed questions surrounding possession of the legitimate authority to allocate and legislate respecting natural resources. Post-Confederation disputes, arising between Federal and Provincial governments, inevitably questioned which level of state control was to maintain jurisdiction over specific resources and to whom the public revenues should accrue.<sup>90</sup> The manifestations of these jurisdictional problems in Ontario were of significance, for the development of Provincial resource policy and their diverse impacts, were experienced by Metis and Indian people. While both revenue-hungry governments failed to consider it seriously, even the inviolate "usufructuary rights" of Aboriginal people to freely use and occupy the land without disturbance,<sup>91</sup> became victimized within these resource conflicts. A brief discussion of the constitutional nature of the divisions of authority between Provinces and Dominion will make more lucid our subsequent discussion of specific resource policy.

Two main determinants of jurisdiction over natural resources arose in Canada. The first emanated from ownership of the resources, and the second derived from a legislative authority. The notion of ownership is a product of Canadian constitutional history, and legislative authority finds its source in the BNA Act where legislative powers are divided between Provincial and Federal legislatures. When overlap of legislative power and ownership occurs, there is understood to exist a complete power over the resource, together with the authority to manage them. This may be a divided authority, but that question is a function of the resource discussed. Where split legislative power and ownership exists, the situation which normally exists, no individual level of government can unilaterally exercise power over that resource, and jurisdictional disputes arise.<sup>92</sup>

The effect of Section 109 of the BNA Act,<sup>93</sup> granting the original four Provinces control over "all Lands, Mines, Minerals and Royalties" belonging to them, was designed to give the Provinces the proprietary rights over the bulk of the public lands and the resources within their boundaries. These rights were largely equivalent to those which a private owner would maintain. (excluding uranium which remained a Federal

## THE BNA ACT: (cont'd.)

responsibility) Section 92 of the Act also provided the Provinces with legislative and executive authority to control the "Management and Sale of Public Lands belonging to the Province", "All matters of a merely local and private Nature in the Province"; and over "Property and Civil Rights".

Federal power over resources stemmed partly from the public ownership of property, and partly from provisions allowed it for legislative and executive authority.<sup>94</sup> The Dominion was empowered to retain policy competence over various areas which could apply to resource policy includind - military defense and naval issues; trade and commerce regulation; navigation and shipping; coastal and inland fisheries; Indians and lands reserved for Indians - and all matters not specifically mentioned as being of Provincial jurisdiction. Powers over spending, taxation, and lending, gave the Federal Government wide-ranging powers for shaping resource policy particularly the power to legislate for the "peace, order and good government" of the country.<sup>95</sup>

A variety of Federal/Provincial conflicts did arise, particularly during periods just prior to and after Confederation. They grew out of a situation which was further complicated by the questions surrounding private resource ownership. The concept of proprietorship provided that one maintained jurisdiction over the rights to exploit a resource; one therefore became empowered to frustrate any legislative authority seeking to ignore that right. Although there came to be considerable variation, the bulk of Canada's mineral resources - some of the forest wealth, some of the rights to harvest fish and game, utilize water from passing streams and exploit recreational resources - became privately owned.<sup>96</sup> This alienation of Crown ownership was of such importance that it will be examined in detail later in this paper.

Jurisdictional complications and confusion were further exacerbated through the host of Government departments and agencies which proliferated over the years, in attempts to legislate and control resource development. The Federal Government's position in later disputes was apparently justified by the arguement that it had the responsibility to insure equalization payments across the country and to redistribute the

## THE BNA ACT: (cont'd.)

revenues accruing to Federal coffers from resources. This argument was of little significance in the early post-Confederation years, and only came to the fore during the depression era in Canada.

## (2) BNA ACT AND CONFEDERATION

## (i) PUBLIC OWNERSHIP AND PUBLIC PROPERTY AFTER CONFEDERATION

The special nature of public ownership allowed Provincial/Dominion authorities the power to administer and control property which was vested in the Queen, for Provincial/Dominion benefit. A transfer of public property from the Province to the Dominion, or vice-versa, seemed to be accomplished largely through Orders-in-Council,<sup>97</sup> this type of transaction was held to be a transfer of administration, not a conveyance of property.<sup>98</sup>

The framework of Common Law, as discussed in the first section, was the system under which Ontario and the Dominion operated. It functioned to allow the Crown the powers to manage and control its land and other properties, "from time immemorial". This power included the right to dispose of them.<sup>99</sup> Furthermore, the surrender of revenues derived from 1840 legislation created an obligation, on the part of the Crown, to theoretically pay any revenue it earned from its public lands and other hereditary sources of income into provincial treasuries for Provincial use.<sup>100</sup> This stipulation, however, did not restrict the Crown's power in administering these lands and restrictions on the Crown were imposed by express provisions rather than by any general rule.<sup>101</sup> These factors will become clearer when we consider Provincial and Dominion relationships to "lands reserved to Indians", lands generally held by indigenous peoples of the Province, and their application to the previously discussed early land transactions in Ontario.

## (ii) FEDERAL CONTROL OF INDIANS AND INDIAN LANDS

Anticipating a large-scale expansion of the Country's frontiers into Rupert's Land and the North-west, and observing that the Crown's responsibility for Indians derived from the Proclamation of 1763, it was perceived as most appropriate that the Federal Government should assume complete management for the control of Indians, their lives and lands by the BNA Act.<sup>102</sup> The power to provide for the surrender of reserved Indian lands, under Section 91(24) of the Act, extended the Government's control over Indian lives by a seemingly unequivocal statute. The exclusive federal power to abolish Indian title, as first introduced by the enfranchisement measures of the 1857 Act,<sup>103</sup> were then extended by the 1868<sup>104</sup> and 1869<sup>105</sup> Acts of Parliament. Definitions were created narrowing who was to be considered an Indian for entitlement to band lands and property. The ultimate goal being pursued was the introduction of the most efficient measures to hasten enfranchisement and the extinguishment of Indian title. While mixed-blood (Metis) people were included within the scope of these early definitions, research has indicated that selective utilization of the band lists by the Indian agents was just one measure used to eliminate the "Status" position of many Ontario Metis.<sup>106</sup> In utilizing both visible, and the more discretionary measures at its disposal, the Federal Government has availed itself of the Common Law heritage to pursue its priorities unobstructed, and further to frequently aid the success of Provincial resource policies.

## (iii) PROVINCIAL CONTROL OF PUBLIC PROPERTY

An improtant judicial ruling by the Supreme Court of Canada maintained that a Province's legislative power over its property carried with it the power to administer and control it through the Provincial Executive.<sup>107</sup> Legislation, as mentioned previously, was therefore not always the only tool available to implement Provincial policy direction and to control resource development. Provincial governments had the right, it was maintained, to act as private owners in exercising their property rights and could, therefore, attach any restrictions they desired in issuing grants by lease or license.<sup>108</sup>

This power had not of course, entitled the Province to administer of control lands reserved for Indians. Though such lands remained vested in the Province, it was prevented from interfering with the Dominion's right legislate respecting such lands. Furthermore, these lands were subject to the INdians' usufructuary title, though policy objectives might occassionally conflict with that right.

In controlling public property "for the public good", the Provinces' had been given valuable tools by the BNA Act and pre-Confederation statutes, for politically directing their economic futures.<sup>109</sup> Strangely, this control was used by Ontario to create a costly infrastructure which supported various resource industries, like pulp and paper, timber, mining, and hydro-electric development, while simultaneously ignoring Aboriginal land-uses, claiming that it was acting in the public interest.

Using the Provincial powers to purchase and expropriate property, with or without compensation, and by becoming directly involved in business enterprises through Crown Corporations like Ontario Hydro, the Province's coffers have flourished. Provincila Crown Corporations, as an aside, were aided in growth by the fact that their property and holdings were exempt from Federal taxation. (Section 125 BNA Act)

## PROVINCIAL CONTROL OF PUBLIC PROPERTY: (cont'd.)

Ontario's reputation for seizing all the advantages it could derive from Confederation - in the sense of the split benefits between Federal and Provincial levels - far exceeded the advantages which accrued to the other provinces. Fishing rights were a case in point. So well recognized was Ontario's prowess in championing Provincial rights to control resource revenues, the Nova Scotia Premier sought Ontario's help in advancing his Province's case.<sup>110</sup> That Ontario had gained control of its inland fisheries in 1898,<sup>111</sup> by suing the Federal Government, reinforced this popular perception. Ontario, like the Dominion, had no qualms about exercising the tools at its disposal - like fiscal manipulation, court action, etc. - to promote the policies it considered beneficial in securing jurisdictional control and ownership over its land and resources. It was unfortunate the Indigenous people in the Province always seemed to be considered as the most expendable obligation within the weighting of the cost-benefit analyses conducted.

## (iv) EFFECT OF PROVINCIAL LEGISLATION ON ABORIGINAL RIGHTS

As we have seen, the BNA Act gave the Provinces sweeping legislative powers regarding civil rights and property, as well as local and private matters. On the basis of these measures, to what extent could the Provinces really affect Aboriginal people and their land-use activities, both on and off the reserve? Quite clearly, no right was given the Provinces to legislate respecting Indians as such, or lands reserved for Indians as such. But since reserves were part of the Province, people on the reserves were determined to be subject to the general laws of the Province.<sup>112</sup> Whites, (and Metis) working, visiting or purchasing articles on a reserve were specifically subject to Provincial laws from which Indians (Registered) might be exempt.<sup>113</sup> Furthermore, Indians off reserve were subject to the general Provincial laws in the absence of conflicting Federal legislation.<sup>114</sup>

Some judicial decisions have been forwarded in which it was contended that no Provincial legislation was applicable to Indians on the reserve.<sup>115</sup> The belief was that since hunting and fishing laws were apparently indistinguishable from other Provincial legislation, and since the 1763 Proclamation, whose force equalled other statutes, granted the Indians usufructuary rights to certain lands, this usufructuary right would necessarily include hunting and fishing. Rights under the Proclamation were particular to Indians, and legislation altering those rights were by nature, legislation respecting Indians which only the Dominion could enact. Parallel logic applies to reserves created by other instruments - like treaties covering the Hudson's Bay Company lands and the colonies of Quebec which were exepmpted from the Proclamation. Furthermore, the right to hunt and fish has been considered by some jurisprudence to be a special privilege given Indians as such, by statute and/or executive acts.<sup>116</sup> Repeal of these rights could only be effected by Federal Parliament, since it dealt with legislation respecting Indians.<sup>117</sup>

Section 87 of the Indian Act, on the other hand, stated that Provincial laws applied to Indians, presumably on reserves as well.<sup>118</sup> The applicable laws had to be of a general nature. But since the Province was not permitted to control indirectly what it could not control directly, on that basis, it could not pass legislation which conflicted with pre-existing or over-riding Federal laws.<sup>119</sup> When a vacuum in Federal legisla-

tion which applied to specific Provincial concerns existed, as in the areas of hunting, fishing or trapping, Provincial laws could exercise jurisdiction. That situation was true only if the Provincial laws did not single out Aboriginal people for specific treatment. Provincial laws still remain inapplicable to social, economic or political aspects of Indian reserves. The Indian Act may, however, referentially incorporate Provincial laws and in that way make them applicable on Indian reserves.<sup>120</sup>

There arose, however, a substantial gap between the theory and practice of Provincial legislation's applicability. Various conflicts in interpretation of the exact delineation of rights between Province, Dominion and Indians were quite clearly seen in the Treaty 3 area where the Aboriginal signatories of the Treaty contended that the Province had unilaterally violated the Treaties' terms.<sup>121</sup> The provisions in the Robinson Treaties, for the continued usufructuary right of Indians to "unoccupied" lands surrendered to the Crown, came to be curtailed by an 1888 Ontario Game and Furbearers Protection amendment. It also treated the Metis in the same was as whites, whether they had been Treaty signatories or not, by requiring them to obtain licenses to shoot deer and by curtailing their hunting rights. While this inclusion of Indians in Provincial Regulations was pushed by Ontario's Commissioner of Crown Lands as a necessary conservation technique, and was reluctantly permitted by the Minister of Indian Affairs, the Federal Justice Department's suggestions that Indian rights had been violated.<sup>122</sup> The Justice Department's suggestions from 1888-1918, to prosecute the Province were never pursued, and this issue is today still being contested by the Union of Ontario Indians. Such Federal reluctance to act was difficult to understand on one level, for the Indian Act had clearly stated that Treaty provisions were precedential to Provincial laws.<sup>123</sup> On another level, the Indian Department's attitude was seen as a political decision, on which came to be consistent with the overall Federal support for Ontario's regulatory measures.

The Indian Act also failed to deal with Metis or Inuit, and on that basis, one might conjecture that Provincial laws applied to them, as to whites. A supposition of that nature might be acceptable if one disregarded the powers of the BNA Act and the 1763 Proclamation - a patently myopic approach to take. The BNA Act, and the 1930 Resource Transfer Agreements,<sup>124</sup> which applied parallel constitutional conditions to the prairie Provinces, provided for "Indians to be guaranteed their traditional hunting and fishing rights. The Treaties applicable to Ontario

## EFFECT OF PROVINCIAL LEGISLATION: (cont'd.)

were also committed to insure that those rights on reserved Indian lands, and in some cases (like Treaty 3) on unoccupied lands surrendered to the Crown, were protected. While the terms applied in the prairie Provinces were more liberal than those in Ontario, neither specifically defined exactly who was "Indian". And while the Indian Act sought to impose that definition, it became unclear if Parliament could retroactively limit who was included within the BNA's references to "Indians".<sup>125</sup>

In spite of the subsequent Indian Act exclusions, we might legitimately assume that Section 91(24) of the BNA Act was incorporating previous conditions which referred to Status, Metis and Inuit as "Constitutional Indians".<sup>126</sup> Neither the Federal Government nor the courts seemed to have as yet clarified this muddled situation, much less defined the exact degree to which Metis people are constitutionally subject to Provincial laws. Furthermore, various legal opinions maintain that the relevance of Provincial "laws of general application" to Indians should be very limited since the Indian Act defines as "Indian" any person "registered as an Indian or is entitled to be registered as an Indian".<sup>127</sup> That notion, of course, leads one to a consideration of the legitimacy of the methods used by the Indian Affairs Department over the years to unilaterally enfranchise and eliminate people entitled to recognition as indigenous users of the land—or—"Constitutional Indians".<sup>128</sup> Moreover, it prompts us to question the fairness of this discriminatory classification, for it became both a direct and an indirect source of conflict in Ontario for Metis people using traditional techniques and renewable resources for their economic livelihoods! The restrictive Provincial control which was exerted on the Metis, especially within the realms of hunting, fishing, trapping and expropriation of lands off reserves, thus came to be totally sanctioned by the Dominion.

Added to the restrictiveness of the undifferentiated Provincial fish and game laws, the conflicts produced by Ontario's other resource-related laws and policies added to the perpetuated sources of antagonism experienced by the Metis in the province. No visible policy distinctions were made between them – as a culturally and historically distinct Aboriginal

## EFFECT OF PROVINCIAL LEGISLATION: (cont'd.)

group - and whites, as Provincial laws were formulated. The selective enforcement of these laws, however, came to reflect the arbitrary decision-making process in classifying this group of indigenous people. When enfranchisement took place through the post-Confederation years, and Metis rights were lost directly - through techniques like non-transmissible title lists and withdrawals from treaty, or indirectly - by non-recognition, a surrender of their distinct rights was perceived as complete by Ontario and the Dominion.

## (3) ONTARIO/DOMINION RELATIONS RELATIVE TO LAND AND RESOURCES

## (i) NATIONAL RESOURCE POLICY

The re-election of John A. McDonald in 1878 allowed him to begin implementing a doctrine developed by R. C. Brown. It was a blueprint for MacDonald's national economic policy to expand westward and further industrialize Ontario's heartland. This "Doctrine of Usefulness",<sup>129</sup> as it was called, provided direction in forging a unified national program. To accommodate MacDonald's obsession with a national railway, economic strategies were developed to exploit the apparently endless timber, metal and mineral reserves. It was then perceived to be a sound approach, for in securing the support of the private enterprise, this national policy could provide liberal access to the untouched resources in North-western Ontario and the prairies, even as the railroad was being constructed. Mineral deposits for example, whose prior location may have been known, suddenly became available for exploitation. Even better for industry, the means for transporting them to markets was to be provided at Government expense. An insured supply of minerals for central Ontario's manufacturing industries became a wonderful opportunity for exploitation for both the Dominion and the mining industry.

A more fundamental political calculation was involved, though, for the railroad would permit the western land and resources to remain in Federal hands, as an expression of a national policy direction. Only with the 1930 Resource Transfer Agreements did the prairie Provinces gain this control, a right which Ontario had cleverly negotiated for itself in 1867. Furthermore, the free land grants given to settlers heading west supported this national policy. In extending Ontario's earlier settlement strategy, the Dominion encouraged a rapid population of Canada's central regions.

Voice of dissent arose in the 1890's, and protests were heard that the policy being pursued by the Dominion was wasteful and destructive of the resources.<sup>130</sup> The beginning of some conservation efforts, originating in the U.S.A. typically, was admirable but lacked any power. As an attempt to influence policy, it floundered it seems until 1906.<sup>131</sup> So the direction

## NATIONAL RESOURCE POLICY: (cont'd.)

undertaken at Confederation, and pursued until the early 1900's was, at the Federal level, solely concerned with promoting the expansion of industrial resource extraction as a means to an end. Eventually, it became the end in itself, as was more clearly seen the parallel Provincial policies of Ontario. As we will shortly detail, on a resource by resource basis, the strong legislative measures to control the scale and pace of development were largely ineffectual. At both levels of government, most income derived from royalties, permits, taxes and licences on resource companies was sunk back into industrial support programs, and Crown property rights were foolishly given away by mismanagement and through the strong ties which traditionally existed between senior levels of government and industry.<sup>132</sup>

## (ii) DOMINION/PROVINCIAL JURISDICTIONAL CONFLICTS

While the Dominion's national unity approach generally supported the growth of Ontario's industry, there arose a certain degree of jurisdictional conflict due to the creation of limiting Provincial borders, as to which level of government controlled those resources. The jurisdictional conflicts were most severe because Ontario's uncompromising stand was aided by its access to an astute group of legal advisors. Antecedent to Confederation, Ontario always seemed to maintain a preferential status within the country as the focus of finance, for initiating settlement policy, for being the center of colonial administration after the creation of Upper Canada, and for creating policy goals which were generally pursued by the other Provincial administrations. And while Confederation had in some ways insured the Provincial rights of the Province, Ontario's historically free-wheeling style of administering its internal affairs came to be somewhat curtailed by the limitations of the B.N.A. Act. This manifest freedom was most obvious in the early 1800's where the Executive Committee ruled unchallenged, and after 1840, when the beneficial interest in the land had been transferred to Upper Canada from the Crown, as already discussed.

Some of the areas in which the Dominion/Ontario conflicts were the most vitriolic are worth mentioning. With reference to Ontario's fisheries, the B.N.A. Act held that provinces had the power to effect legislation (Sec. 92(5)). The Federal powers to legislate under the "Sea Coast and Inland Fisheries" provision seemed to present itself as a conflicting interest to Ontario. In what became known as the notorious "Fisheries Case",<sup>133</sup> the Privy Council eventually decided that the Province of Ontario could legislate on the proprietary aspects of both provincially and privately owned fisheries, since it controlled the fate of property and civil rights. The issues of succession to, and disposal of, fisheries was then a clearly defined Provincial right.

However, the Privy Council also upheld an earlier Supreme Court of Canada decision<sup>134</sup> that the provinces could legislate respecting the "Sale and Management of Public Lands", according to the B.N.A. Act. They could define the terms upon which Provincially owned fisheries could be granted, leased, disposed of or conferred; but the legislation applying

## DOMINION/PROVINCIAL JURISDICTIONAL CONFLICTS: (cont'd.)

to waters within the Province's jurisdiction could be made solely if the Province's specific property rights were also consistent with, but not overriding Dominino jurisdiction.<sup>135</sup> This case thus indicates how jurisdictional conflicts could arise solely as a result of legitimate exercise of constitutional powers by both governments.

This landmark decision legitimized forntario a wide scope of regulatory powers that were soon to be implemented for the control, management and distribution of the Provincial fishery resources.<sup>136</sup> It also clearly indicated how the Provincial proprietary right was balanced against the public right to fish. What the Privy Council failed to consider was the special aboriginal rights to this resource and how they fitted into the larger provincial regulatory scheme.

A further difficulty in interpreting the B.N.A. Act, where there existed a lack of clarity respecting the application of "civil and property rights in land", were the jurisdictional conflicts arising with respect to the beds of navigable waters. It was understood, from the previously mentioned decision, that the fisheries were under the jurisdiction of the Provinces, and that the owner of the bed of stream had the exclusive rights to fish in it. The argument forwarded by the Federal Government was that the Great Lakes, the sea coasts and the large freshwater lakes at international borders belonged to the omnion as "Lands set apart for the general public purpose." That contention was also set aside by the Privy Council as unfounded; it held that the Dominion legislative authority to regulate matters concerning "Sea Coast and Inland Fisheries" was not based upon proprietary rights, nor was their ownership of navigable waters, by virtue of the Dominion's power over navigation and shipping, perceived to be sound.<sup>137</sup>

It must also be born in mind that there is a broad distinction between proprietary rights and legislative jurisdiction. The fact that such jurisdiction in respect of a particular subject matter is conferred on the Dominion Legislature, for example, affords no evidence that any proprietary rights with respect to it were transferred to the Dominion. There is no presumption that because legislative jurisdiction was vested in the Dominion Parliament proprietary rights were transferred to it.<sup>138</sup>

This decision was extended beyond the issue of freshwater fisheries to include fisheries in non-navigable waters where the beds were vested in  
the Province.<sup>139</sup>

As the Province sought to reap the benefits from its precious metals, trying to even include those on Indian reserves,<sup>140</sup> and attempted to control the growth of the timber and hydro-electric industries, a variety of other Federal/Provincial disputes arose which eventually progressed to court. Rather than discuss them generally, these conflicts will be dealt with in the next section as they relate to specific case examples and indicate how they affected the Aboriginal population of the Province.

The growing awareness of the necessity for Federal/Provincial cooperation in successfully managing resource activities eventually caused Federal laws and regulations to be issued relative to various renewable resource areas. Enforcement of these measures, however, was usually left to the Provincial authorities and in this way, avoided most of the previous forms of constitutional conflicts. By pursuing a route of consultation, rather than referring questions to embarrassing and expensive litigation, a new policy process was initiated; it also resulted in a methodology which allowed problematic representations, like those from unfairly treated Aboriginal groups, to be effectively buried.

## LAND DISPUTES, RESOURCE POLICY AND JURISDICTIONAL APPLICATIONS

## (1) ONTARIO'S NORTH-WEST BOUNDARIES AND THE RESOURCE TRANSFER AGREEMENTS

The process of defining the northern and western boundaries of the Province of Ontario, after Confederation, turned into the first major Federal/Provincial dispute arbitrated to resolution. Utilization of judicial and arbitration procedures was kept at a high level when jurisdictional conflicts over resource exploitation and disposition arose, and where there were presented disputes surrounding the Provincial confirmation of the Treaty 3 reserves.

The three prairie provinces were created from lands which had been reserved to Indians under the 1763 Proclamation, plus the territory which had been held by the Hudson's Bay Company (HBC) as separated from lands reserved under the Proclamation. The beneficial interest in the lands held by the HBC, significantly had not been assigned by the Crown, to any specific party within the context of the original grant. This fact would seem to conflict with the assertions first made by that Company in 1812, that their Charter allowed them to dispose of their lands, such as those granted to Lord Selkirk under the name of Assiniboia.<sup>141</sup> The 1839 attempts by the Company to establish courts and an independent government in Assiniboia indicated that the HBC assumed it owned this territory under the Charter. In fact, it had only been licensed to them in 1821, as a joint right, together with a parallel right of the North-West Company. The HBC was therefore, attempting to exercise a "de facto" ownership of lands belonging to Canada, in spite of the fact that the Crown's proprietary rights could not be affected by the sale of private rights of its subjects.<sup>142</sup> Similarly, the natural resources found in all of the Prairies continued to remain vested in the Crown, a policy which continued even after the extension of the Provincial boundaries.

The 1868 transfer of Rupert's Land from the Hudson's Bay Company to the Dominion<sup>143</sup> had this surrender confirmed by an Order-in-Council,<sup>144</sup> pursuant to Sect. 156 of the B.N.A. Act, and Sect. 5 of the Rupert's Land Act. The North Western Territories and Rupert's Land were thus admitted to the Union. The HBC received £ 300,000 and retained some proprietary interest, while cleverly divesting itself of all the costly administrative functions it had to exercise up to that time. Since this was effectively a transfer, the precious metals which may have been construed as belonging

Ontario's North-West Boundaries: (cont'd)

to the Company prior to the transfer, did not remain with the Company. Except for the properties specifically reserved by the HBC, the beneficial interest over resources in the territory transferred, were indisputably passed to Canada.<sup>145</sup>

The transfer, it was later contended by Ontario, was an opportunity seized by the Dominion in order to enhance its own position and acquire control of the North Western Territories.<sup>146</sup> Furthermore, it was alleged that this Federal expansionist drive caused the Dominion to push routes through Ft. William and Ft. Garry, extending its post-Confederation control over unceded Indian lands, in spite of Indian complaints to this effect -

and it was in consequence of the irritability displayed by the Indians, at being neglected or delayed that in 1873 it was deemed expedient to arrive at a speedy settlement with them without too narrowly inquiring into the reasonableness of their demands.<sup>147</sup>

This perception was reinforced, in the eyes of the Ontario Legal Counsel, by passage of the 1871 Order-in-Council which admitted British Columbia into the Dominion. By this measure, the Dominion had committed itself to completing the C.P.R. by 1881.<sup>148</sup> In effect, the N.W. Angle Treaty was strenuously pursued by the Canadian Government primarily to fulfill its obligations to British Columbia, and to gain access to newly acquired territory in the North Western Territory and Manitoba.<sup>149</sup>

The formation of the Manitoba Border in 1870<sup>150</sup> allowed pre-existing Indian policy to be focussed upon the Halfbreeds, where permanent extinguishment of Halfbreed title was pursued in exchange for scrip/land grants. The 1872 Dominion Lands Act<sup>151</sup> further allowed the Government of Canada to satisfy Halfbreed claims, by withdrawing from the operation of the Act, lands necessary to satisfy those claims (Sect. 31). Obviously, this approach could only have been undertaken after Rupert's Land had been surrendered to the Dominion. The spin-off effects which were not immediately realized were the disputes that would shortly be generated with Ontario, in defining that Province's western borders.<sup>152</sup>

Ontario's North-West Boundaries: (cont'd)

The 1930 extension of equal status to Saskatchewan, Alberta and Manitoba, to parallel the rights possessed by the other provinces, dealt with the distribution of public property and ancillary jurisdictional control. The Crown's interest in all lands, mines, minerals and royalties, and sums payable on them, were transferred to the provinces, subject to previous trusts and interests. The exceptions included Indian interests and additional Crown lands necessary to fulfill its obligations under the Treaties in disposing of Indian rights, privileges and titles.<sup>153</sup> The constitutional rights given to the Indians regarding hunting and fishing on "unoccupied" Crown lands were more liberal than those accorded them in Ontario;<sup>154</sup> for these rights were even to take precedence over Provincially inspired conservation programs and restrictions.<sup>155</sup> Based on its past learning experience with Ontario, the Dominion insured that it would not be liable for, or have to account for, any income or benefits it had derived from lands, minerals, mines, or royalties before the implementation of this agreement.<sup>156</sup>

2. EFFECTS ON THE TREATY 3 AREA

(i) Arbitration Issues

(a) Border Changes and the St. Catherine's Milling Case

Use of the Treaties and surrenders as the prime technique to secure Indian lands for settlement and Provincial expansion was a policy unique to the Province of Upper Canada. By Confederation, the bulk of the Province's valued lands had been obtained from the Aboriginal people in this fashion, and the system of reserves was well established. The 1870 creation of the Province of Manitoba, as discussed in the previous section, led to a drawn-out Federal/Provincial dispute regarding the extent of Ontario's western and northern borders. Resolution of these disputes was temporarily postponed until the Dominion could achieve a surrender from the Saulteaux, Ojibway and Halfbreeds in the western part of the Province. The Northwest Angle Treaty Number 3<sup>157</sup> was thus negotiated and signed on October 3, 1873, at the Lake of the Woods.

In response to the Rainy Lake Indian's pressure to include their Metis relative in the Treaty<sup>158</sup> and some Metis' desire to form their own treaty,<sup>159</sup> a Federal memorandum suggested that a reserve be laid out to accommodate the 90+ Rainy River Halfbreeds who had joined the Indians.<sup>160</sup> Recommendations from the Commissioner of Crown Lands were more cautious, and he suggested that a final confirmation into law of these Halfbreed Reserves be withheld at this time.<sup>161</sup> The projected Halfbreed Reserves were to be confirmed "to localities previously cultivated by the Indians and occupied by them as camping and fishing grounds...and that these Reserves should be so placed as not unnecessarily to interfere with the progress of settlement."<sup>162</sup> Subject to the appropriate modifications in surveys and final confirmation by the Governor General in Council, provisional approval for these Halfbreed Reserves was given. An interesting element was that the Rainy Lake Reserves were to be composed of both farming and wild lands. The latter to be distinguished in the surveys,<sup>163</sup> would be administered by the Government. One cannot help but assume that this was a deliberate attempt to control the Halfbreeds and keep them

Border Changes and St. Catherine's Milling: (cont'd)

directly accountable to the Federal Indian Department. The Rainy Lake Halfbreed Adhesion to Treaty 3<sup>164</sup> was then signed into effect on September 12, 1875, providing a legitimized recognition by the Dominion of those particular Metis claims, in spite of subsequent Federal policy which tended to ignore the existence of all further claims.

A provisional Ontario/Dominion boundary agreement was reached on June 26, 1874, allowing Ontario's western border to be temporarily established pending the decision of an Arbitration Board. In the context of the agreement, Ontario was to provide concurrence in any further reserve selections situated within the Province, and hunting and fishing activities of Aboriginal people were to be restricted only when they came into conflict with "essential" mineral, timber or settlement activities.<sup>165</sup> While the determination of the Arbitrators was published on August 3, 1878,<sup>166</sup> the Federal Government remained reluctant to accept it. The larger proportion of the Treaty 3 area was held to be within the confines of the newly established Ontario borders and the balance fell within Federally controlled lands of Manitoba and the Northwestern Territories.

In 1881, the Dominion expanded the borders of Manitoba to include 85,000 square miles of territory which were awarded to Ontario in 1878.<sup>167</sup> Ontario's virulent contestation led submission of this matter to the Privy Council. In 1884, the Privy Council decided that the Arbitrators' 1878 decision was correct and by an Order-in-Council,<sup>168</sup> confirmed that 30,500 square miles of Ontario had been included in the Northwest Angle Treaty. The 1889 Canada (Ontario Boundary) Act<sup>169</sup> further confirmed the Privy Council's decision. But by granting land north of Ontario to Manitoba, via the Arbitrators' decision, a further convolution was introduced into shifting border disputes where the issue of Metis scrip entitlement in Manitoba, and its overlap onto north-western border areas of Ontario, became significant both to Government and the affected people.

These shifting borders added to the confusion in determining jurisdiction of surrendered Treaty 3 lands. Because the Dominion had,

Border Changes and St. Catherine's Milling: (cont'd)

as did Ontario, assumed that it maintained the entire beneficial interest in the land ceded by Treaty 3, and vested in the Crown, it issued a Federal timber permit in 1883 to the St. Catherine's Milling and Lumber Company to cut 1 million feet of lumber in the disputed territory. The lawsuits evolving out of this action became a cornerstone for subsequent determinations of Provincial rights to land and resources on surrendered Indian territory.

Because of the unsettled nature of Ontario's borders, the Dominion had contended that the ceded Indian territory became part of the North Western Territory at the time of the 1873 surrender, and part of Manitoba in 1883. In both transfers, the Federal Government maintained that it was responsible for title and ownership to those lands and resources. Ontario's case claimed that this area was public land in the Province's domain, as were the powers of resource disposition by virtue of the B.N.A. Act (Sec. 109). Ontario thus demanded compensation for cut timber and injunctions against timber removal or further trespass on Provincial lands.

The Federal position was subsequently proved wrong by the final western border determination of 1884; the Chancellor of Ontario, on June 10, 1885; the Ontario Court of Appeal, on April 20, 1886; the Supreme Court of Canada, on June 20, 1887; and the Privy Council on December 12 1888. In deciding against the Federal claim, the Privy Council held that the Indians did not possess a complete proprietary interest in the surrendered lands, limited only by an imperfect power of alienation.<sup>170</sup> The nature of Indian land rights was discussed by the case insofar as previous Aboriginal personal and usufructuary rights, dependent upon the good will of the Sovereign, could not jeopardize the legal validity of a Crown grant. As Lord Watson stated:

The Crown has all along had a present proprietary estate in the land, upon which the Indian title was a mere burden.<sup>171</sup>

Border Changes and St. Catherine's Milling: (cont'd)

Because Indians were not considered to be in possession of the ungranted lands by virtue of a fee simple title, Ontario should have derived benefit from the 1873 cession, since the land was vested in the Crown at the time of the union. Such grants were therefore entitled to be issued by the Province only, after Confederation, since the beneficial interest in the land and resources were guaranteed to the Province of Ontario.

Part of the significance of the Judicial Committee's decision was the reaffirmation of the Dominion's exclusive power to regulate the Indian hunting and fishing "priviledge" on the one hand, and maintenance of the sanctity of Ontario's beneficial interest in the resources on the other. On this basis, it was decided by the Committee:

Seeing that the benefit of the surrender accrues to her, Ontario must, of course, relieve the Crown and the Dominion of all obligations involving the payment of money which were undertaken by Her Majesty, and which are said to have been in part fulfilled by the Dominion Government.<sup>172</sup>

The decision, as embodied in the 1889 Imperial Act,<sup>173</sup> also permitted an intensification of the protracted negotiations begun in 1882 between the Dominion and Ontario. There was a demonstrated need by both parties to settle the outstanding accounts, make determinations relative to continued annuity payments to the Indians and finally confirm the reserves previously selected pursuant to Treaty No. 3.

(b) Settlement of Accounts and Attempts at Arbitration

As we have indicated, from 1874 until the release of the Privy Council's decision, both Canada and Ontario claimed possession of the disputed territories, (Treaty 3 lands). Within this time period, faltering steps had been taken by the Secretary of State and the Provincial Attorney-General towards reaching agreement without judicial intervention. Ontario's main concern in having the Dominion abandon its claim on the disputed lands was to facilitate Provincially-controlled settlement and resource development.<sup>174</sup> Mowatt, the Attorney-General of Ontario, had been unsuccessful in getting the Federal Government to recognize Provincial patents already issued in that territory.<sup>175</sup> He maintained that the Dominion was unduly stalling while trying to reverse lower court decisions in the St. Catherine's Milling case. It was unfair, Mowatt stated, that patents issued to settlers in the western part of the Province should be jeopardized by Federally sponsored delays.

Ontario, however, was hardly in a position to cast disparagement in good conscience at the Dominion. For the 1882 Dominion suggestion to establish a Joint Commission, as reiterated in 1887, was Provincially resisted; Mowatt felt that a Commission would further remove incentive for the Federal Government to expedite termination of litigation, and would probably impede the issue of any new Provincial patents until the Commission felt like complying. Ontario preferred to set up "unofficial" meetings between the Minister of the Interior and the Commissioner of Crown Lands to negotiate in a less public forum. Little trust was demonstrated in this period between the two Governments, and the unfulfilled 1884 Federal promise to refer the question of Ontario's northern boundary to the Privy Council further increased Ontario's angst.

With the final establishment of Ontario's boundaries in 1889<sup>176</sup> work was begun towards confirmation of the Treaty 3 Reserves selected 16 years earlier. The statutory enactment of the 1874 Agreement<sup>177</sup> specified that Aboriginal usufructuary rights would continue to be unilaterally curtailed whenever they were judged to conflict with mining, settlement policy

Settlement of Accounts and Attempts at Arbitration: (cont'd)

or lumbering. Ontario's concurrence in future Treaties on unsurrendered lands in the Province was henceforth to be required, and a Joint Commission would be established to discuss Ontario's dissatisfaction with any of the lands selected. The principle involving headland waters was reiterated here, so that waters in lands laid out as reserves, and covering headlands not wholly surrounded by the reserve, as well as the islands in the headland waters, continued to remain part of the reserve. They would also remain beyond the common public fishing right. As will be indicated later, these provisions came to be radically altered and thus produced significant conflicts between Aboriginal people and the Province.

As Ontario prepared its case for settlement of claims against the Dominion, a Stipendary Magistrate - E. B. Borron - was appointed to conduct investigations into the rights, interest and annuities due the Indians and Halfbreeds in the Treaty 3 and Robinson Treaty areas. He was also to determine what outstanding claims could be made against the Province in the Treaty 3 territories. The 1891, 1893 and 1894 Reports submitted by Borron reflected his diligence in protecting Ontario's interests and in seeking to reduce the fiscal responsibilities of the Province to the Aboriginal people. Focusing on Halfbreeds in particular, he recommended to the Province that all annuities to mixed-blood people be cut off entirely.<sup>178</sup> He eliminated Metis from Band Lists in making his calculations, claiming that they were not entitled to the \$4.00 annuities. Borron also manipulated the already questionable population figures mentioned in the various Treaty documents.<sup>179</sup> His techniques of "purging", as he described them, laid the ground work for the Non-Transmissible Title scheme which operated from 1898 to 1917. The means which were used by the Magistrate to fulfill his mandate were most significant, so much so that a close examination of their implementation is warranted. To this end, the reports of K. Noble and C. Harrington submitted to O.M.A. in April of 1980 should be studied.

Given the fact that little progress was made after 1888 between the Dominion and Ontario in resolving their fiscal differences, the Dominion

Settlement of Accounts and Attempts at Arbitration: (cont'd)

filed a claim with the Arbitrators in 1893 to settle the disputed accounts. Canada wanted Ontario to fulfill the conditions of the 1888 judgement, recompensating past Dominion expenditures under Treaty No. 3.<sup>180</sup> The Dominion also remained anxious for Ontario to confirm the reserves which had been selected pursuant to the Treaty - a condition stipulated as necessary in both the 1874 Agreement and the 1891 Act. On this point, Ontario claimed that it was hesitating until it received an exact listing of the Dominion's past expenditures, as well as a detailed survey showing which reserves had been selected. Furthermore, the Province was awaiting the reports being prepared by Borron in order to strengthen its case before the Arbitrators. On November 16, 1895, armed with the necessary information for rebuttal, Ontario submitted its response to the Dominion's Statement of Case as filed with the Arbitration Board.<sup>181</sup>

While the importance of these submissions will shortly be discussed, another significant element came into play within the context of the negotiations. A statutory Federal/Provincial Agreement was executed on the 16 of April, 1894, between T. M. Daly - Superintendent General of Indian Affairs - and J. M. Gibson - Secretary and Registrar for Ontario.<sup>182</sup> This important accord stated that because Ontario had taken no part in the selection of reserves under Treaty 3, and had not yet concurred with their selection, the Province would make a full inquiry as to the reserves laid out by Canada, with a view of acquiescing to their extent and location unless some good reason arose. Should such objections issue from the Province, a Joint Commission would be appointed to settle all questions relating to such reserves. The agreement reaffirmed the principle of including headland waters as part of reserves, as originally outlined in the 1891 Statute, and provided that the Federal right to control inland fisheries under the B.N.A. Act would not be prejudiced. It also restated the Province's right to concur on all future Treaties in the Province, on selection of further reserves and on alienation of hunting and fishing rights in granted areas of the Province.

Settlement of Accounts and Attempts at Arbitration: (cont'd)

This agreement was connected intimately to the cases presented in 1893 and 1895 to the Arbitrators. It was hoped by both parties to the dispute that the agreement and the arbitration would allow a final settlement of the outstanding questions of annuity, accounts outstanding, and reserve confirmations to be achieved. Treaty 3 Bands were of course typically excluded from any of these negotiations, and Aboriginal consultation in this process was limited to the Indian Affairs Department informing the Indians and Halfbreeds that nothing could be done to validate their previous agreement with the Government until Ontario and the Dominion reached an accord. That conclusive agreement was still far-off, for in spite of submissions of cases to the Arbitrators, preparation for the hearings would continue until 1903.

Some of the elements presented in the 1895 Ontario statement are worth noting for they reflect the building blocks on which Ontario's Aboriginal policies came to be built. Ontario felt justified in pressing for a "Division of liability to the Indians between the Dominion and Ontario according to the territorial area of the ceded territory"<sup>183</sup> and not according to the territory of the reserves located in the Province.<sup>184</sup> "The apportionment of the contribution of land (by Ontario) for Reserves (should be) on the same basis."<sup>185</sup> The Province contended that existing reserves should not necessarily be confirmed as they then stood, for more acreage was calculated to have been taken than was justified. This position was just one of the products of the enterprising Borron Reports, as they strove to support the Province's case.<sup>186</sup>

The Counsel for Ontario argued further that in spite of previous promises given by Governor Morris to the Indians, precious metals on the reserves could not be claimed by them since they were justifiably the property of the Province. And because the Treaty could not provide for an Indian interest in gold and silver on reserves, Ontario claimed, those resources, together with metals on the excess acreage given as reserves, should accrue to the Province. As we shall discuss shortly, this question

Settlement of Accounts and Attempts at Arbitration: (cont'd)

became the focus for defining the contested proprietary rights to minerals on reserves within Ontario. (vis.: Ontario Mining vs. Seybold case)

The Provincial position held that it should also necessarily disown liability for the expenses incurred by the Dominion in carrying out its duties such as surveys, salaries and Departmental charges, policies, encouragement of agricultural pursuits and education of the Indians. Should it be found liable for these expenses, Ontario would only be willing to pay a proportional sum based on the amount of ceded land determined to be in Ontario. It was further unwilling to be liable for expenses incurred, or payments made, to the Indians prior to the execution of the Treaty, especially those "excessive" annuities paid the Aboriginal people to allay their agitation from having their lands trespassed on "without their consent, and by delays made to their applications for compensation..."<sup>187</sup> This claim, while not specifically detailing such, alluded to the Federal preoccupation with avoiding a Metis uprising in Ontario parallel to that which occurred in Manitoba.

Ontario also seemed to be using this opportunity to begin a consolidation of its policy within various resource areas. By insisting, as mentioned previously, that the Dominion provide a detailed accounting of the proceeds it had collected after the 1874 boundary agreement, Ontario sought compensation for the annuities heretofore collected relative to lakes, rivers and fisheries. The lands granted to the HBC, in return for a surrender of the Company's rights in the Winnipeg Basin, were added elements for which Ontario desired credit.

And yet another resource-related point made in Ontario's response harked back to the previous year's agreement. The 1894 Agreement, Ontario contended, had stipulated that if reserves were selected on the basis of their timber value, rather than on their suitability for settlement and agricultural pursuits, the resultant contravention would entitle Ontario to an allowance, equivalent to a reduction in the amount of annuities the Dominion might seek from the Province.<sup>188</sup> This was a vital point for it

Settlement of Accounts and Attempts at Arbitration: (cont'd)

related to a number of timber permits the Dominion had issued in the Province after the 1874 Boundary Agreement. It also focused on Ontario's assertion that natural resources were exclusive Provincial property. The Province consequently refused to be accountable for the money the Dominion had expended on administering timber operations on the disputed lands, or for the money the Dominion had refunded to licensees when their licenses proved to be valueless. It further charged that the Dominion had in many of the accounts submitted misrepresented the amount of money it had collected, as in the case of the Rainy River Lumber Company.<sup>189</sup> and the C.P.R. timber sales.<sup>190</sup> That the lease rates were overly generous to the timber companies and that specified timber permits had been grossly exceeded<sup>191</sup> because of poor enforcement, were yet other sources of Provincial complaint.

The Dominion maintained, in defending its actions, that it had issued timber licenses at so late a date because: 1) the Judicial Committee of the Privy Council did not have its decision on the border issue confirmed by the Crown until 1889; 2) the Dominion possessed the Indian title to land in question; 3) applications to cut timber had been made before the boundary question was referred to the Privy Council and survey delays had slowed the entire process, creating severe pressure on the Minister of the Interior to issue the licenses.<sup>192</sup>

While both Governments had by this time submitted their claims for account settlement to the Arbitration Board, each tried to ferret out data from the other respecting the reserve confirmations. Little help came from the courts which still failed to produce any judgement truly satisfactory to either Government. The Dominion objected to what it perceived as Ontario's continued recalcitrance in confirming the Treaty 3 Reserves, especially since potential revenues were being lost from tied-up mineral applications on reserves, until Ontario confirmed them.<sup>193</sup> And in spite of Ontario's protests, the Department of the Interior had, in 1894, supplied the Commissioner of Crown Lands with the requested schedules and descriptions of the reserves, as laid out by the Government of Canada

Settlement of Accounts and Attempts at Arbitration: (cont'd)

prior to the final settlement of Ontario borders.<sup>194</sup> Although Ontario had enacted the 1891 Statute<sup>195</sup> where a joint tribunal would be appointed should Ontario be dissatisfied with the reserves selected, the Province still failed to make any definitive overture. The Dominion saw this inaction as instrumental in causing dissatisfaction amongst the Indians, needless litigation between Her Majesty's subjects, and "embarrassment in the administration of Indian Affairs".<sup>196</sup> The Privy Council thus requested Ontario to define the legitimate reasons for refusing to confirm the reserves and outline them specifically.

Quite clearly, Ontario was trying to tie the settlement of the annuity payments to the confirmation of the Reserves and the precious metals therein,<sup>197</sup> capitalizing on the Dominion's anxiety for reserve confirmation in order to secure increasingly valuable gold and silver deposits still locked up by Indian Affairs. The weak rationalizations expressed by Ontario were quite evident of this point, as statements issued to explain this attitude would blame a variety of problems as causative:

...and it had been suggested  
that some slight rivalry  
between departments has  
interfered with progress in  
this direction...<sup>198</sup>

But what Ontario's Counsel had really been worried about for two years were the terms of reference given to the Arbitration Board. In preparing for a high-level ministerial meeting, in August of 1900, Irving stressed that many of the Dominion's claims could best be settled by a legal tribunal or through negotiation, and not by a Board of Arbitration. He was anxious that the many legal and constitutional questions grossly exceeded the Board's jurisdiction. Furthermore, the powers given the Arbitrators allowed them to go beyond strict evidence of legal liability.<sup>199</sup> This was particularly bothersome to Ontario's case because there would be no appeal from their decision.

Settlement of Accounts and Attempts at Arbitration: (cont'd)

That such matters should be dependent in their finality upon the expression of opinion by Arbitrators without regard to law, would be deemed by the public generally to be intollerable.<sup>200</sup>

One of the fundamental issues involved concerned the validity of seeking an arbitrated solution to natural resource claims at all. While Ontario was preoccupied with proportional territorial divisions of the Treaty 3 area,<sup>201</sup> the Dominion was fixating on Ontario's resources as being more valuable than those in Manitoba and the Keewatin. Each of the Governments was trying to increase the other's fiscal liability and reduce its own. Ontario felt that this approach was hypocritical on the part of the Dominion for a determination by resources was not considered in the terms of the 1873 Treaty. In measuring the value of the territory in this way, Ontario claimed, there arose conflicts with the Aboriginal personal and usufructuary rights to hunt. Furthermore, the territorial resources, (except for species hunted and fished), were not even relevant to Indian compensation when the Treaty was signed.<sup>202</sup> Ontario thus tried to press the case that the only claim entertainable before the Board was indemnification against a proportion of the annuities. The non-compulsory obligation and costs expended by the Dominion, as specified in Ontario's 1895 Statement of Case, were not the Province's or the Arbitrator's concerns. But while Irving presented these objections, and even went so far as trying to reject responsibility for interest on the money expended to date by the Dominion, he recognized that Ontario's position might not be as secure as generally perceived:

The dangers of any part of the claim under Treaty 3 being placed before the present board of Arbitrators can hardly be exaggerated.<sup>203</sup>

Given the reluctance of Ontario to proceed towards arbitration, there continued to be little progress in resolving the outstanding Aboriginal claims or in confirming the reserves. And in spite of the pressure exerted by the Dominion, the Federal Government did not proceed enthusiastically

Settlement of Accounts and Attempts at Arbitration: (cont'd)

towards arbitration with much relish either. Considerable correspondence and meetings between Clifford Sifton, the Minister of the Interior (and Superintendent General of Indian Affairs) and Arthur Hardy, The Attorney-General (later Premier), served to resolve few contests.<sup>204</sup> However, some modicum of increased co-operation did result, at least on paper, in the context of the reserve confirmations. The Ontario Mining vs. Seybold<sup>205</sup> litigation to be discussed, involving both Governments as intervenors, will examine the extent of real co-operation manifested.

In conjunction to, and as a result of the forgoing arbitration, a paper agreement was concluded on July 7, 1902 between Counsels for both Governments. Though it was a product of mutual policy and convenience, having no effect on the constitutional or legal rights of either Government, it was apparently a reinforcement of both positions. Known as the Blake (for Ontario) - Newcombe (for Canada) Agreement,<sup>206</sup> it provided the Dominion with full power and authority to sell, lease, convey title in fee simple or for any less estate, any lands forming part of any reserve surrendered by the Indians, and the minerals thereon. While such transfers would have to be confirmed by the Province, the Dominion would hold the proceeds subject "to such rights of Ontario thereto as may exist in Law". The most significant element was that questions surrounding the disposition of precious metals in Reserve lands, other than those of Treaty 3, would be resolved based on law and the circumstances of each. The arbitrary methods operational in decision-making were thus reinforced, and firm guidelines which could be understood by the public failed to materialize. But in spite of this Agreement, nothing really substantive was decided upon in the areas of accounts, annuities or reserve confirmations.<sup>207</sup> The Agreement was not even laid before the Provincial Legislature for approval; its value was largely propagandistic for the Provincial Administration in satisfying Members' inquiries regarding the negotiating position of the Province.<sup>208</sup>

While matters continued to drag on through 1903 and 1904, awaiting the commencement of the Arbitration Board hearings, the Dominion

Settlement of Accounts and Attempts at Arbitration: (cont'd)

continued to have cold feet. The Indian Affairs Department realized it would probably lose the case before the Arbitrators, based on past Privy Council decisions in similar cases. The Deputy Superintendent suggested on this basis that:

It would be well in the negotiations to use the claim as a basis of compromise of the Department's claim for confirmation of the Reserves.<sup>209</sup>

Pursuing the case to the Exchequer Court might be even a weaker route for the Dominion to follow than Arbitration, because an appeal from the Exchequer Court involved both facts and law, whereas appeals from the Arbitrators lay only on points of law.<sup>210</sup> This belief would seem to contradict what Irving earlier stated but it is not significant here.

In 1903, both Governments decided to withdraw their cases from the Arbitrators and present them to the Court of the Exchequer. Discussions between Newcombe (Deputy Minister of Justice, Canada), A. E. Irving (Counsel for Ontario) and Hogg (Counsel for the Dominion), resulted in the question of reserves being dropped from the case before the Exchequer Court. Concern was to focus on the money claims in dispute, to determine liability and establish payment schedules of the money expended by the Dominion in connection with Treaty 3.<sup>211</sup> The Indians of Treaty 3 continued to be excluded from these negotiations for it was held that they were not interested in the financial settlement to be reached.<sup>212</sup> The case before the Exchequer was still pending in 1905 because of Federal delays in passing an Order-in-Council to confirm the 1902 Agreement.

(c) Negotiation Towards Confirmation of Reserves

The prime reason for the delays in confirming the Treaty 3 reserves emanated not from the principle so much as the magnitude of the lands promised to the Indians. This came to pass because the bulk of the lands reserved to the Indians were in the Province of Ontario, much of which contained valuable resource materials. As we noted before, the 1894 Federal/Provincial Agreement which provided for a Joint Commission to resolve disputes, produced little results and questions about reserves were deferred until 1900. This delay was allegedly due to the various claims between the Dominion, Ontario and Quebec being in progress, and because Ontario claimed that Treaty 3 matters were not in the Dominion's submission of claim. Seeking to recapture the reserved mineral and timber-rich lands, Ontario attempted to renegotiate the basis upon which the reserve lands were calculated as already outlined in Ontario's 1895 Statement of Case. Ontario calculated that the 57 Treaty 3 reserve areas contained timber valued at \$227,354.00 for dues alone, discounting the valuable spruce and the potential bonuses to be earned by the Province.<sup>213</sup> The Deputy Minister of Lands and Forests also pressed the unsatisfactory nature of the reserve locations and sizes because they were impeding the smooth flow of settlers in those areas.<sup>214</sup>

This Provincial recalcitrance was compounded by its perception of Dominion policy as using Ontario to achieve access to Manitoba and the Northwest, and in pursuing its railway policy. Attempts by the Dominion to gain complete jurisdiction over timber, fisheries, and base and precious metals on the reserves were not flowing smoothly; the 1902 Blake-Newcombe Agreement only partially resolved those questions. The Dominion was being squeezed to take a more moderate stand in negotiating and towards this end, modified its previous positions. It would withdraw its claim against Ontario in the Exchequer Court if the Province forsook its alleged rights claimed upon the reserves. It was also prepared to waive its claims on water and navigable waters fronting Indian Reserves, providing that past sales stood.

Negotiation Towards Confirmation of Reserves: (cont'd)

The other reserves in the Province were also a part of the issue, for though they were not included within any Treaty, they had to secure Provincial confirmation. The fate of many Indian and Halfbreed people continued to hang in the balance within reserves at Pic River, Pays Plat (Lake Superior), Michipicoten, Bear Island, and the various reserves around the Nipigon Lake and Nipigon River.<sup>215</sup>

And while no specific mention was made by the Province of the Halfbreed reserves in the Treaty 3 area, Ontario was particularly anxious to have the Rainy River Reserves sold quickly.<sup>216</sup> The Province claimed that there were few Indians settled there, and the existence of reserves "seriously inconvenienced" their expansion and development plans.<sup>217</sup> There was also little direct mention of the fact that Ontario saw great revenue potential in the growing timber industry and from generation of Hydro electric power in the Lake of the Woods and the Rainy River areas. Indian Affairs, however, remained reluctant to comply with these wishes, claiming that Ontario was seeking unwarranted alterations to the 1902 Agreement and thus violated existing compacts between the Dominion, Ontario and the Indians.<sup>218</sup> That Ontario sought to extend its power over road creation and water power rights in the Reserves, and to spur quick sales of Rainy River Wild Land Reserves, did not ease the negotiations in the least.

But the Provincial Treasurer was not to be deterred by Federal hesitation and he reaffirmed Ontario's position by stating:

This Government is not prepared to acquiesce in a large portion of the forest lands in western Ontario passing figuratively but practically into mortmain, and as much already found to be an uncubus upon the Territory. The Ontario Government desires to secure in some instances some development of the Reserves, so that the entire surrounding country may not be debarred of the ordinary chances to progress.<sup>219</sup>

Negotiation Towards Confirmation of Reserves: (cont'd)

Matheson went further in attempting to turn the tables and accused the Indian Affairs Department that it in turn was:

...embarrassing the negotiations by endeavouring to alter the language of the agreement of 1902 by introducing interpretations which are unnecessary and creative opinions of difference.<sup>220</sup>

In the face of unrelenting Provincial pressure, the Indian Affairs Department appeared to become more willing to negotiate the Wild Land Reserve surrenders so greatly desired by Ontario.<sup>221</sup>

Still the protracted confirmation debate dragged on, with the Minister of Lands, Forests and Mines complaining about the irate settlers blocked by the existing reserves,<sup>222</sup> and Ontario chaffing at the bit to acquire the Rainy River and Wild Land Reserves.<sup>223</sup> Even with the impetus provided by the 1910 Privy Council decision which exempted Ontario from annuity liability in Treaty 3 areas, and the passage of the 1912 Boundary Extension Act,<sup>224</sup> a final resolution of the confirmation issue was not realized until 1915.<sup>225</sup> These elements are better understood within the context of a specific case, and for that purpose, the Rainy River surrender process will shortly be examined.

(ii) Federal/Provincial Accommodation in Aboriginal Policy

Policy-making can easily be understood as the simultaneous operation of various policy processes, where decision-makers must resolve conflicts, and respond to demands, under constraints of time and money.<sup>226</sup> This perspective clearly relates to the era just examined in Federal/Provincial negotiations. Federal attempts to develop consistent Aboriginal policy became increasingly influenced by Ontario's headlong rush towards Provincial settlement and an increase in the subsidized growth of industrial resource extraction. Given the limitations of information and analytic capabilities of Federal and Provincial policy-makers, development of an equitable Aboriginal policy hardly seemed possible. In fact, the incrementalist Federal Aboriginal policies increasingly oriented itself towards dovetailing with Ontario's appetite for surrendered Indian lands.

As will no doubt be remembered from our preceding discussion of developing "civilization" policies, there was a baseline consistency in the transfer of power from the Imperial authorities to the Province of Canada and then to the Dominion of Canada. Policies generally favoured "civilization" of Indians through settlement and agricultural subsidies financed, we must add, from the proceeds of the Indian Trust Funds. The statutory legitimization of this process was traced through the Acts of 1857 (20 Vict., c. 26), 1866 (29, 30 Vict., c.81), 1867 (30, 31 Vict., c.3), 1869 (32, 33 Vict., c.6) and 1886 (R.S.C., c.43). Reference was also made to the Pennefeather Report which highlighted the responsibility of the Indian Department in stimulating agricultural pursuits of the Indians, propaganda techniques to encourage destruction of traditional lifestyles and promotion of the white moral, religious and social alternatives.

The Ontario Government, not being saddled with the constitutional responsibility for Indians and Lands reserved to Indians under the B.N.A. Act, was primarily concerned with the extent of lands that had been reserved for the Indians by the Dominion without Provincial input. The fundamental position taken by Ontario in 1874, and pursued to its conclusion in 1915, was summarized by the Provincial Commissioner of Crown Lands in 1899 with respect to the Treaty 3 reserve selections:

Federal/Provincial Accommodation in Aboriginal Policy (cont'd)

...the position of the Province has always been that the Reserves in question, regarding which the agreement between the two Governments was entered into, were greatly in excess of the necessities of the case, and it has been intended that there should be negotiations with a view to determining what would be reasonable and proper settlement of these questions.<sup>227</sup>

By seeing how reluctant Ontario was to co-operate with the Indian Affairs Department in confirming the Reserves, the Deputy Superintendent General of that Department broached what was soon to become a dramatic policy shift affecting enfranchisement and the loss of Treaty rights. The new variation in policy seemed designed to accommodate both Ontario's preoccupation with reserve size and the Department's desire to secure Provincial confirmation of the reserves in Treaty 3 and the remaining unconfirmed Robinson reserves.

The substance of this new policy, developed pursuant to a 1904 Ontario draft Order-in-Council, dealt with how the proceeds of Indian reserves and land should be disposed of. This draft order incorporated a clause from the earlier 1902 Blake-Newcombe Agreement, but altered it slightly to read, "upon the extinction of the Indian interest therein".<sup>228</sup> Indian Affairs then tried to make an alteration of its own, and in a November 15, 1905 Dominion draft Order-in-Council, suggested that the surrender of Indian lands, timber, minerals etc., taken prior to sale of the lands, subject to "the rights of Ontario as may exist by law", be changed to read: "the ownership to any lands and money held by the Dominion...as such may exist by law".<sup>229</sup>

Ontario, however, was unwilling to accept this wording for the Dominion could then retain too much control over Provincial resources. What the term "extinction" really came to mean was the elimination or disappearance of the Indians, rather than just the termination of their interest in the lands and resources. The Indian Affairs Department,

Federal/Provincial Accommodation in Aboriginal Policy (cont'd)

sufficiently influenced by Ontario's perspective, began to insidiously translate "the extinction of Indian interest" to mean "Whenever a Band of Indians inhabiting the tract described in and ceded by Treaty No. 3 shall become extinct." This definition was purportedly necessary to "protect" the Indian interest from the barely bridled land lust of Ontario. In reality, it was a technique which provided the Federal Government the means to implement a number of band amalgamations and enable the subsequent transfer of freed lands to the Province. The Rainy River surrenders was the most dramatic case in point, as we shall soon see.

Provincial officials, not wanting to depend solely on this newly instituted technique, went so far as to suggest that the Department sell off the Wild Land Reserves without the consent of the Indian and Half-breeds. This was a bit too extreme even for the Department, and seeing its clear illegality, Pedley<sup>230</sup> and the Minister of Justice<sup>231</sup> refused to comply. What the Department was willing to accept, in deviating substantially from its original position, was:

With a declaration that the meaning to be attached to the words 'upon extinction of the "Indian interest"' is the extinction or disappearance of the Band or tribe interested in the lands and monies, all objection to accepting the provisions of the draft forwarded by Honorable Mr. Gibson on the 4th of May, 1904, disappears so far as the Dominion is concerned, and the way is clearly open for a mutual understanding.<sup>232</sup>

So Ontario's position was further strengthened as it strove towards a quick surrender of the Rainy Lake Reserves. If the Indians continued to remain alive, the Reserves would be purchased from them and quickly auctioned off to settlers, the Town of Rainy River and various private interests. The substantial influence exerted by private, local and regional business concerns, in helping to push these negotiations towards completion, aroused the suspicion of contemporary observers. A Member of Parliament who lived in the District commented that:

Federal/Provincial Accommodation in Aboriginal Policy: (cont'd)

...a movement to have the lands (Indian Reserves along the Rainy River) surrendered to the local or Principal authorities...was put on foot mainly by certain parties who desire to secure for themselves control of the lands and timber...<sup>233</sup>

As we will discuss later, there was indeed a real basis for these concerns. The business lobbying pressuring for access to these lands was highly competitive.

There was passed, in 1924, "An Act for the settlement of certain questions between the Governments of Canada and Ontario respecting Indian Lands".<sup>234</sup> It was a formal ratification of the 1902 Ontario-Canada Agreement respecting ownership and control of ceded Indian lands and minerals, and was largely consequent to the finalization of borders and the settlement of accounts. The Act, however, went much further than the 1902 Agreement. "Extinguishment of title", as mentioned before, came to be legislatively equated with "extinction of Bands and tribes". The Agreement to which Ontario and the Dominion had come in 1906 was now enshrined in law as a consistent policy, henceforth to be pursued. The legislation stipulated that:

...in the event of the band or bands to which any such Reserve has been allotted becoming extinct, or if, for any other reason, such Reserve, or any portion thereof is declared by the Superintendent General of Indian Affairs to be no longer required for the benefit of the said band or bands, the same shall thereafter be administered by, and for the benefit of the Province of Ontario...<sup>235</sup>

Furthermore, any proceeds derived from the sale of that land no longer required for the benefit of that band was to be paid to Ontario with accruing interest.

The freedom that this Act gave the Department of Indian Affairs and the province was frightening. Indians and mixed-blood people could now not only be enfranchised unilaterally, amalgamation of different bands into one "officially recognized" band could effectively eliminate the

Federal/Provincial Accommodation in Aboriginal Policy: (cont'd)

existence of the separate bands. Consequently, areas of hitherto reserved land would be made available to industrial users and expanded settlement activity. The amalgamation of bands, as a policy instrument, had been used in 1915 (in the Rainy River Reserves), and later in the Teme-Agami Anish-nabai case on Bear Island, in the 1960's and early 1970's.

The Act further permitted mining claims to be staked on reserves with the permission of the Indian Agent, being subject to the laws of both the Province and the Indian Act. Securing the consent of the Bands was not a requisite consideration. Except for the Treaty 3 reserves, Ontario was to get 90% of the payable considerations from purchases, rents, royalties or leases. Minerals and precious metals, either through lease or grant were to be subject to the 1914 Ontario Bed of Navigable Water Act as well. The Act was therefore the product of 50 long years of difficult negotiation, agreements, arbitration, litigation, and occasional tantrums between Federal and Provincial Governments. In the end, Ontario was provided with very liberal access to the lands it desired and to a great deal of the resource revenues from on-reserve "gifts of nature".

(iii) Jurisdictional Problems and Ontario Resource Policies

(a) The Tradition of State Support

In the context of promoting industrial growth within the resource extractive industries of Ontario, both Federal and Ontario Governments attempted to establish a favourable climate for increasing resource extraction, refinement and export. As early as 1851, the Province of Canada was casting itself in a supporting role to industry, presenting, on the initiative of Lord Elgin, an exhibit at the Great Crystal Palace Exhibition to demonstrate the Province's resource wealth.<sup>236</sup> State support and encouragement through various mechanisms were increasingly extended to the sectors of mining, smelting, refining, timber cutting, pulp and paper making and power generation.

Zealous state stimulation of industrial growth, in the context of an active policy role, was unfortunately not paralleled by effective public control, nor by an equitable distribution of the resource wealth throughout the population. The State's role, we emphasize, was largely to serve as a facilitator and promoter of economic development through/for the private sector<sup>237</sup> - where natural resources could return significant non tax-related revenues, with the hope that policy options might develop.

The ways in which government-business associations matured, reflected a classic clientele relationship where interest group politics became one of the driving influences in Provincial policy-making.<sup>238</sup> When conflicting interests or objectives arose, such as the contrary views articulated by Aborigines or settlers, government priorities had to be established to eliminate the challenge to the concept of private interests being equated with public policy. But while the Province's intervention in the resource development field was supposedly designed for the protection of "the public interests", the intervention was mainly focussed on supporting those client groups or special interests who were supposed to be regulated. Being a highly flexible concept,<sup>239</sup> manipulation of the "public interest" became very expedient in supporting the interests of the prevailing state

The Tradition of State Support: (cont'd)

administration, especially when dealing with issues of foreign ownership, investment potential, industrial expansion, conservation, revenue generation and conflicting Aboriginal land-use activities.

Given the short-term perspectives of the policy-makers, reactive crisis management continued to be the method through which decisions were implemented. One product of such an approach was that both Federal and Provincial Governments became increasingly vulnerable to the influences exerted on them by Aboriginal pressure groups. Another was that the regulated constituency was permitted to become instrumental in the development of regulations which would subsequently affect them. This process came to be so institutionalized that the regulators often came to be considered as "captured" by their clients, or the industries which were supposed to be regulated.<sup>240</sup>

In permitting such a distorted method of policy-making to continue, wherein patronage was distributed liberally, and where decisions were made in-camera, solicitation of input came to be restricted to the primary industrial proponents. Direct articulation of industry interests to the policy-makers, usually at the highest levels of government, produced patterns of influence which transcended that which Aboriginal people could ever hope to achieve. The extensive ties connecting specialized interest groups to the Provincial Government will be mentioned later in the context of the regulatory process. Still, it should be noted that problems of access to information and continuation of biased policy objectives were consistent themes throughout the Aboriginal - Industry - Province issues surrounding Treaty 3 lands. Believing in the possibility of equitable participation within the decision-making process is today as much of an illusion as it was 100 years ago. And while interests other than industry's may now be more clearly articulated in the context of some public forum, their real effects on a final policy determination need carry no further weight than they did in the early 1900's.

(b) Resource Control in Ontario

Specific conflicts developed in association with the abundance, or potential abundance, of particular resources within Ontario. Forests, metals, minerals and hydro potential were all elements with which the Province found itself well-endowed, prompting naturally, contestations over the appropriate distribution of the resource revenues and control. This necessarily led to the increased visibility and importance of any jurisdictional conflicts in the context of Federal/Provincial relations and overlapped onto the areas with which we are concerned - Aboriginal relations and Aboriginal policies at both administrative levels.

Ontario's pre-occupation with specific regional development schemes, and the protection of its own political interests, grew as its administrative competence flourished. Jurisdictional disputes arose with the Dominion as Ontario responded to Federal constraints on resource disposition. The Treaty 3 area became a particular focus for many of these conflicts, particularly in areas where there overlapped Federal/Provincial rights consequent to the B.N.A. Act.

Confirmation of Treaty 3 Reserves and Provincial Riparian Rights

In our earlier discussions of Federal/Provincial negotiations, arbitration and litigation, we highlighted the lack of progress in securing Provincial co-operation towards confirmation of the Treaty 3 Reserves. As late as 1914, no definitive action had been taken towards this end. At this point, the negotiations were reaching critical proportions as the Province foresaw a potential boom in hydro-electric development and the leasing of water rights. The Deputy Minister of Lands, Forests and Mines felt that the far-reaching exemptions earlier provided the Treaty 3 Bands continued to "seriously cripple our action with respect to the application of Winnipeg for leave to take its water supply from Shoal Lake...there is much room otherwise for future trouble under the clause as it reads.<sup>241</sup> Mr. White contended that the 1894 Agreement,<sup>242</sup> to which he referred, never intended to permit the lands under water to belong to the Indians. What was really at stake was the principle of riparian ownership and the extent to which Ontario maintained jurisdiction over determining water rights and property within Provincial waters.

The jurisdictional problems related to riparian rights were, as in other resource-related areas, products of inadequate definitions of responsibilities and an incomplete listing of resources in the B.N.A. Act. With the establishment of new Provincial borders, questions arose in relation to problems of transfer of authority. One contentious issue for example was which level of government was to control rivers and lakes. The Privy Council was brought into the picture to decide the issue in the "Fisheries Case",<sup>243</sup> and it was held that a clerical error in transcribing the B.N.A. Act was really the source of the problem. River beds and improvements (artificial works) on lakes were not deemed to be transferred, by Section 108 of the Act, to the Dominion. They remained, therefore, under the control of the Province. Similarly, it was held that fish contained within those water, irrespective of the Dominion's right to control inland fisheries, belonged to the Province.

Within areas of inter-provincial waters, the Dominion retained ascendancy since "water resources" were not specifically assigned by the

Confirmation of Reserves and Provincial Rights: (cont'd)

Act to either level of Government. Balance against this right are the Province's jurisdiction over "local works and undertakings", and "all matters of a merely local or private nature in the Province," (Sect. 92 (10,16)). Provincial interest in "Lands" was taken by Sect. 109 to connote "lands and waters", thus restricting Federal jurisdiction in water resources to those areas specifically designated to the Dominion - vis. navigation, fisheries, international and coastal waters and "lands set apart for general public purposes".<sup>244</sup> The Dominion could resolve this dilemma for itself only by passing legislation under the head of "peace, order and good government", as was done in the 1970 Canada Waters Act. Such an approach authorized the Federal Government to undertake unilateral management projects with respect to any inter-jurisdictional, international or boundary waters should efforts at co-operation with a province fail. This provision in the B.N.A. Act, however, allowed the Province to retain the major stake in water resource management and development. And in the case of Ontario, advantage was surely seized.

By 1914, Ontario's fears seemed paranoid that water power development in the western part of the Province might be curtailed. The Indians of the Rainy River Reserves had possession of the unsurveyed islands in the River and did not appear anxious to give them up. For Indigenous people to have control over potentially valuable hydro development, even that under 500HP., undercut the exclusive Provincial control so assiduously being pursued.<sup>245</sup> The Province brooked no obstacles to increased revenue or to expanding settlement. So it reiterated its former position that the reserves still in limbo would be confirmed when 1) the Dominion purchased lands decided to be excess Reserve acreage - beyond what the Province felt was fair; 2) when surrenders for the Rainy River Reserves, including the islands, were secured by the Dominion; 3) and when the Rainy River Bands amalgamated to settle permanently on the Manitou Reserve.<sup>246</sup>

In order to implement its plans, Ontario wanted a repeal of the 1894 Gibson-Daly Agreement which outlined Indian riparian rights as:

Confirmation of Reserves and Provincial Rights: (cont'd)

...land covered with water lying between the projecting headlands of any lake or sheets of water not surrounded by an Indian Reserve or Reserves, shall be deemed to form part of such Reserve, including islands wholly within such headlands, and shall not be subject to the common right of fishery by others than Indians of the band to which the Reserve belongs.<sup>247</sup>

By altering this condition, Ontario could impose restrictions on Aboriginal fishing rights, gain better control of Indian/Aboriginal water rights, and implement a reworked headland-to-headland principle.<sup>248</sup>

The Indian Affairs Department appeared to become more accommodating towards the Ministry of Lands, Forests and Mines as it tried to save face and end the interminable Treaty 3 disputes. Efforts in bi-lateral negotiation were now becoming more sophisticated as the Federal and Provincial administrators continued their correspondence. Forty years of expensive litigation was apparently sufficient and a quick conclusion was sought by both parties. In supporting the Provincial desires, the Deputy Superintendent General of Indian Affairs increased pressure on the Rainy River Bands to surrender their Reserves and to amalgamate on the Manitou Rapids Reserve.<sup>249</sup> Since these conditions were stipulated by Ontario as being pivotal to the final confirmation, the paramount mandate to protect the Indians' interests were quickly being eroded. So Scott outlined his Department's perspective to the District's Indian Agent:

The Department cannot countenance the blocking of an arrangement which is manifestly in the interest of good Government and of all the Indians concerned. If they persist in this refusal the Government might be compelled to carry out the arrangements by mutual consent, as they have the undoubted power to do.<sup>250</sup>

He was willing to go even further and seek Parliamentary authority to evict the Indians should they prove unwilling to co-operate.

The perspectives of the Aboriginal people on the Reserves being discussed were radically different from those held by Provincial and Federal

Confirmation of Reserves and Provincial Rights: (cont'd)

authorities. The Chief and Councillors of the Little Forks Band were particularly unwilling to be coerced into a surrender and were unwilling to amalgamate with the other Bands, fearing that their Band's political and cultural identity would be sublimated.<sup>251</sup> Unsavory threats from the Indian Agent that the Government would drive them off, an approach sanctioned by Departmental directives, only antagonized the Bands further. The demonstrated bigotry of the Agent towards the Indians, an attitude underlined by his frequent harping about the Indians being "in my opinion all pagans and medicine men, (who) have strange beliefs and superstitions",<sup>252</sup> only added to the irritations of the Chiefs.

There was much hesitation on the part of the Hungry Hall and Little Forks Bands to make further concessions to the Government, until the proceeds from sales of the Wild Land Reserves they had previously surrendered, and the timber cut on that land, were returned to them.<sup>253</sup> As a product of the mistrust for the Indian Affairs Department, as well as for Lands and Forests which had been refusing to issue the Indians timber permits, the Chief of Little Forks Reserve stipulated that the money owed be paid directly to the Chief and not to the Department.<sup>254</sup> The Hungry Hall and Long Sault Bands who were also encouraged to surrender their Reserves became most upset when they discovered that the Agent's promises, made to them on the 22 of December 1914, for land, supplies and money were fabrications.<sup>255</sup> What the Bands were not told was that the Manitou Rapids site was chosen for amalgamation because whites on the American side of the River planned to establish a town and locks at Long Sault - a factor which did not gel well with the presence of nearby Indian reserves.<sup>256</sup> Neither were they told that Rainy River wanted to expand its Town or that the Province had designs for encouraging power facilities. What the Bands did realize was that the Manitou Band was the most influential in the District of Rainy River and was likely to undermine the authority of the Chiefs of all the other Bands taking part in the amalgamation. The Department failed to believe this contention and claimed that the Bands still retained their individuality.<sup>257</sup>

Confirmation of Reserves and Provincial Rights: (cont'd)

However, in face of so much pressure, most members of the 6 Bands signed the agreement with the D.I.A. to amalgamate on the Manitou Reserve and surrender the Little Forks, Long Sault No. 1 and 2, Hungry Hall No. 1 and 2 Reserves.<sup>258</sup> Some members dissented and refused to participate, despite the Federal incentives of a non-sectarian school and compensation for past improvements on surrendered lands.

Since Ontario had stipulated that the islands in the Rainy River now be part of reserved Indian lands, the Province sold the Dominion the islands for \$1.00 per acre. The Dominion could in turn exclude them as part of the Treaty 3 Reserves by obtaining a surrender for them from the Indians. This complicated paper transfer then allowed the Province access to and control over the waters for power development and disposition of the riparian rights by lease of licence. And having secured these surrenders, the Dominion and Ontario were freed to give the Greater Winnipeg District access to the bed of the Indian Bay in Shoal Lake Reserve, and the islands in the Province of Manitoba, together with parcels of land on the mainland of the said Reserve. This access was particularly important to the Winnipeg District for it needed water from Shoal Lake and Lake of the Woods for domestic, sanitary and power purposes.<sup>259</sup> This will be discussed in the context of hydro-development of the area.

With the preconditions set out by Ontario now fulfilled, Ontario and the Dominion would proceed to resolve all outstanding conflicts. Surveying and opening up of the surrendered reserves, including the "wild lands" was to occur at the Dominion's expense.<sup>270</sup> The 20,672 acres of excess Treaty 3 lands taken for reserves (excepting Ouetico Reserve #24C), would be purchased by the Dominion, subject to a recalculation of the outstanding accounts based on the real population numbers at Treaty time.<sup>261</sup> Ontario would then confirm all the Reserves.

In confirming the Treaty 3 Reserves, an opportunity was provided Ontario to fulfill its wish - to renegotiate the 1894 Agreement. Waters

Confirmation of Reserves and Provincial Rights: (cont'd)

and attendant lands with water power potential exceeding 500H.P. on Indian Reserves now became the property of the Province, with the Bed of Navigable Waters Act applying. The Province would have to pay only 10% of all the monies earned from purchases/rentals/royalties to the Superintendent General of Indian Affairs - for the benefit of the Indians.<sup>262</sup> This sum was agreed to even though Scott had previously suggested that 50% would have been more equitable an arrangement for the Indians (read Indian Affairs Department). And a further clause provided that the headland principle agreed to in the 1891 Act<sup>263</sup> and the 1894 Agreement,<sup>264</sup> would be altered so that waters and islands between headlands, not wholly surrounded by Indian Reserves, would now become part of the Provincial holdings, and not part of the Reserves. Through the 1915 Act,<sup>265</sup> these provisions were legislated into effect, allowing the Province to capture valuable resources on previously reserved Indian lands. This product of political and economic expediency enabled both levels of Government to subsume Aboriginal rights under the premise of upholding their constitutional rights to protect the "Public Interest".

Provincial Mineral Rights and Conflicts in Treaty 3 Area

The minimal control exercised by Ontario over the timber industry failed, in the late 19th Century, to be translated to the Province's mining business. The roots of this situation can be traced back to early Provincial economic policy perceptions, where rapid exploration and development of mineral resources became equated with the public good. In realistic terms, it presented the opportunity to substantially enrich the Provincial coffers. The role which the Province necessarily had to play in achieving this end was to be the industry's agent in facilitating access to land and services at minimal costs.<sup>265</sup> The state's control, as exercised through the notion of public resource ownership, was weakened rather than strengthened by this post-Confederation posture. Furthermore, the costs borne by the Aboriginal people of the Province continued to escalate - precisely because of this state-industry collusion in pursuing mutually increased returns.

Given the Crown's hereditary rights, this approach to resource disposition seemed to be rather anti-thetic to establishing a leadership and regulatory role, by the Province. It contradicted the historic distinctions which had traditionally been made between possession of the surface rights and the ownership of subsurface minerals. Both French and British legal systems had provided the State with mineral rights as its just inheritance; in New France, precious and base metals could be exploited in the King's name only by designated royal monopoly. In the English colonies, a portion of the gold, silver and copper on unoccupied or private lands had to be transferred to the Crown, in recognition of its rights.<sup>266</sup> Recognition in both cases allowed revenues to be earned for the Crown(s) by the vehicle of royalties. This policy was further strengthened in 1791 by Lord Dorchester, when he was instructed to reserve, in addition to the precious metals, tin, iron, lead, and coal. In keeping with British policy, all strategic and fiscal resources were withheld from the domain of private ownership.<sup>267</sup> But unlike waterpower, base and precious metals, and minerals, were held specifically distinct from the ownership of the land and were maintained as the interest of the Crown.

In the mid-1800's, American-based mining activity in the Province

Provincial Mineral Rights and Conflicts: (cont'd)

picked up, spurred by earlier discoveries of copper in Michigan and Wisconsin. The Province of Canada felt the time opportune to issue Orders-in-Council for regulation of claim staking and establishment of prices for ore-bearing lands. The Government's perception of the American activity in the Province was that it was a great boon, in spite of the fact that the American's skimmed the best of the resource opportunities off the top. Entering the 1900's, it was stoically held that: "in reclaiming our lands by their operations. . . advertising the country in the markets of the world," U.S. industrialists were operating in the best interests of Ontario.<sup>268</sup>

Even though the Crown's rights to gold and silver were retained on agricultural and mining lands, the Province continued to facilitate access to base ores for a very vocal mining lobby. Continued pleading and pressure exerted upon the Government by the miners produced spectacular results for them. By 1865, the cost of leasing acreage for mining activities had dropped markedly; the pre-condition of immediate claim development, as previously imposed by the Government, was abolished; and the royalty of 2½<sup>269</sup> imposed on mining in 1862 was eliminated.

With further coercive pressures on the Government by the industry, and the generation of a minor gold rush in Lower Canada, the 1865 Gold Mining Act was passed. Far from being a measure to control profiteering, this Act actually served as a tool to dispose of the Crown's title to gold by outright sale. By 1866, Crown reservations of gold and silver on patented lands, and the royalties thereon, were removed as well. Government officials were apparently very concerned with the miners' laments of the great risks and high capital costs endemic to the industry. The potential for earning huge profits was, as a corollary, rarely stressed within any public forum by either Government or industry.

Encouraged by the potentially valuable silver deposits found on the north shores of Lake Superior, the Province of Ontario extended the previously mentioned 1865 provisions to cover this mineral-bearing area.<sup>270</sup>

Provincial Mineral Rights and Conflicts: . . . (cont'd)

A variable royalty was to be reimposed on all mined silver and gold. The resultant furor in the industry which this revision provoked compelled the Legislature to revoke it, simultaneously eliminating duties, taxes, royalties on all metallic ores, as well as cancelling any outstanding gold or silver reservations still maintained by the Crown.<sup>271</sup> By this revised Act of 1869, prospectors were given the run of the Province, having access assured for them to all Crown and private lands. For a mere dollar per acre, they could obtain complete proprietary rights to the subsurface minerals. And through this statutory measure, the final surrender of the public interest in minerals and metals was effected - at the behest of the industry - where the operating rationale given was the necessity to promote development.<sup>272</sup>

The question of the Province's prerogative rights again came to be problematic with the preparation for the Treaty 3 surrenders. The Commissioners appointed to obtain the surrenders from the Saulteaux Indians were having a difficult time, because the Aborigines were quite aware of the existence of precious metals in the areas desired by the Government.<sup>273</sup> The Commissioners wrote the Department stating that, "They seem fully alive to their own interests and evince no small amount of intelligence in maintaining their views".<sup>274</sup> The Aboriginal people were particularly incensed that Ontario was patenting their lands and minerals, even while their title to the lands was unextinguished.<sup>275</sup> As in previous instances, where mining licenses had been illegally issued in 1841 and 1847 by the Province around Lakes Huron and Superior, the Indians and Mixed-bloods of Rainy River and Fort Francis demonstrated "against this invasion of their rights".<sup>276</sup> In the preliminary conversations between the Aboriginal people and the Commissioners, leading up to the execution of the 1873 Treaty, Chief Mawandopines of the Fort Francis Band stated his position quite clearly respecting minerals on the land:

My terms I am going to lay down before you; the sound of rustling gold is under my feet where I stand; we have a rich country.<sup>277</sup>

Provincial Mineral Rights and Conflicts: (cont'd)

To allegedly protect the rights of people surrendering their lands, the Dominion was to hold the proceeds of timber, minerals and precious metals on reserved lands, subject to the general trust incumbent on the Indian Affairs Department for the benefit of the Indians.<sup>278</sup> But in the selection of the reserve placements, including those from the "wild lands", the Commissioners were instructed to situate them as far as possible "from the probably line of settlement and should not include any land known to the Commissioners to be mineral lands, or any lands for which as mineral lands bona fide applications have been filed with either the Dominion or Ontario Governments".<sup>229</sup> It was quite obvious in whose interest the Federal Government was working.

According to the terms of reference created for Treaty 3, the Commissioners specifically provided - at the insistence of the Indians - that the Bands and Tribes should enjoy the benefits of all minerals found on any reserved tracts. The other 55,000 square miles surrendered would be unaffected by any trust or condition in favour of the Indians. They were to remain vested in the Crown, in trust for the public purposes of the Province of Ontario. The question remaining was to whom would subsequently surrendered Treaty 3 Reserve lands and resources accrue, after 1873. Furthermore, there arose some uncertainties respecting mining and timber rights on reserves generally; were those rights to be held by the Dominion, in trust for the Indians, as a fee simple estate from the date of signing the Treaty 3, or only in those treaties signed prior to Confederation?

These questions soon came to be considered in a practical context. The Rat Portage Band, one of the participant groups in the Northwest Angle Treaty 3, sold 3 sections of their Reserve to the Crown in 1889, along with the mineral rights. These parcels were then in turn sold by the Dominion, in fee simple, to the Ontario Mining Company. This transfer was complicated by the fact that in 1899, Ontario proceeded to grant, by letters of Patent, these and other parcels of land - along with their minerals - to Seybold et. al. as tenants in common. Ontario had recognized the potential conflict, and had stipulated in the grant to Seybold that it was:

Provincial Mineral Rights and Conflicts: (cont'd)

Subject to the rights of the Government of the Dominion in respect of the lands or minerals, ore or metals theron/in, without recourse against Ontario should the Province's title to land, mines or minerals be found defective.

Two conflicting claims were thus set up; Ontario's challenge of the Dominion seemed to be calculated upon the past success it had under the St. Catherine's Milling and Lumber litigation.

The case of Ontario Mining vs. Seybold,<sup>280</sup> with the Dominion and the Province of Ontario serving as intervenors, progressed through the courts until reaching the Privy Council. The Federal Government held that, "the ownership of the precious metals is a condition of title as essential to avoid the dissatisfaction among the Indians as any condition actually inserted in the Treaty; and so in view of the purpose of the Ontario Statute (54 Vict., c.6), equally binding on the Ontario Government.<sup>281</sup> The Dominion claimed that subject to limitations of the grant on the specific reserves, and special conditions under which they were set apart, the Dominion-held trust was not subject to subsequent Provincial legislation.

The Privy Council held that the precedence of the St. Catherine's case was inapplicable, for in that case, only lands without interest or trusts attached were surrendered - not reserved lands. Ontario's claims were not valid here since the Dominion's exclusive right over lands reserved to Indians was incontestable. The Treaty 3 Reserves turned out to be a special case within the overall Provincial picture. Ontario agreed to consider the precious metals as forming part of the Treaty 3 Reserves, to be disposed of by the Dominion for the benefit of the Indians.<sup>282</sup> Ontario also agreed to confirm the reserves heretofore made by the Dominion, an action which we noted previously, took 12 years to finalize. This appeal was also instrumental in setting up the conditions outlined as part of the 1902 Blake-Newcombe Agreement, where it was stipulated that "Ontario's rights at law" would have to be considered, and that Federal rights over Treaty 3 lands and resources were recognized - though not confirmed.

Provincial Mineral Rights and Conflicts: (cont'd)

With respect to the other Provincial reserves, the 1902 Agreement held that Ontario would have to be consulted on a case by case basis. This situation arose because the courts continued to hold that the rights of the Crown to wastelands in the Colonies, and their base metals, were distinct from the title possessed by the Crown to the precious metals. such being based upon the Royal prerogative.<sup>283</sup> These prerogative rights were vested in Canada by virtue of 9 Vict., c.114 (1846), as discussed in the first section of this paper. While the British Crown continued to possess the legal title to hereditary revenues and resources, the beneficial interest in the Royal mines and minerals capable of producing revenue passed to Canada. It was further held by the Privy Council,<sup>284</sup> that the B.N.A. Act (Sect. 109) transferred this beneficial interest to Ontario under the word "royalties", and that the Indians had no interest in the gold or silver, allowing them to surrender nothing. The right to gold and silver in lands, like escheats,<sup>285</sup> were not transferred to the Province as incident to lands, but rather as a prerogative right emanating from the Crown. The concession made by the Province in the case of the Treaty 3 reserves was, therefore, based on political and not legal parameters. Should the case have arisen with reference to the rich mining areas in the Robinson-Huron region, the situation would certainly have been different.

Provincial Control of Timber Rights

The system of leaseholds - the main instrument by which timber resources were allocated to lumbermen - proved to be most accomodating in satisfying the various demands of the industry. In order to achieve a stable source of income from the annual timber dues, the Province allowed the licensees to occupy a position so secure they could demand services and protection from the Government at little or no cost to themselves. A brief overview of this industry's development, vis-a-vis proprietary Crown rights, becomes most instructive in assessing overall policy perspectives on conflicting types of land use.

The initial exercise of Crown authority, with respect to timber centered about timber reservations to supply the Imperial Navy. The instrument of Crown license, as initiated in 1711 and 1721, sought to reserve pine and oak on an exclusive basis.<sup>286</sup> A subsequent Bill, designed for the U.S. colonies, and applying to the Canadian areas as well, instituted a military licensing system on wild, unoccupied and freehold lands.<sup>287</sup> Distinct naval reserves were later set aside within each township by the Governor of Quebec, and in 1789, guidelines were issued to reflect the Crown's possession of lands and resources on all territory other than those destined for agricultural purposes. Given the large area available for settlement, few conflicts arose between naval reserves and settlers. The reservation laws were in any case only sporadically enforced and timber supplies came primarily from the uninhabited parts of the Province.<sup>288</sup> So, Imperial laws came to be increasingly modified to suit colonial administrators' purposes. Increasing civilian and military demands upon the timber resources were further boosted as the British Board of Trade allowed preferential trade allowances for the colonies. Uncontrolled felling became a commonplace occurrence, even though the Navy still maintained the only legal right to contract cutting in 1825.<sup>289</sup> The numerous petitions and protests from the Aboriginal people strongly evidenced the degree to which white settlers and entrepreneurs disregarded the 1763 Proclamation; both reserves and unceded lands had their forest reserves stripped without authority.

Provincial Control of Timber Rights: (cont'd)

With this growth in civilian timber harvesting and demand, the resource came to be regarded more as a Provincial than an Imperial commodity. In 1826, the Executive Council of Upper Canada thus instituted a civilian licensing system under which commercial operators would have to deposit personal bonds, obtain licenses and define which Crown lands they intended to cut - primarily so that a scale of duties could be determined by the Colonial Government. While licenses were deemed authorizations to cut trees, to be paid for at specified rates, they were not to be construed as deeds to the Provincial lands.<sup>290</sup>

Until the mid-1800's, the Executive Council used the tool of licensing conditions to promote its other policy aim - the advancement of agricultural settlement. By adroit manipulation of property rights and terms of licensing, specific areas of land could be cut over in preparation for a population influx. No objections came forth from the lumbermen for they wanted the resources without the encumbrance of land ownership. The timber industry was even permitted to defer payment for the trees cut until they had actually been sold.<sup>291</sup>

Termination of the preferential timber arrangement with the Imperial Government, by 1846, promoted a financial crisis in the Canadian colonies. Until this point, Crown timber regulations had been oriented towards maximizing production from a growing number of operators. This loss of favoured status resulted in traumatization of the colonial financial structure; the timber industry had been its major revenue producer.<sup>292</sup> A Legislative Committee then implemented, in 1849, the first civil statutory framework: the Crown Timber Act.<sup>293</sup> The appended regulations were, naturally, tailored to the welfare of the Canadian timber operators, since political spokesmen representing their interests sat on that Committee. The underlying belief was that settlement could be facilitated by Provincial orders for the proponents to rapidly remove the timber and surrender the exhausted timber limits to the Crown again. These potential controls were more offset by the free access to the timber given the industry, along with the assurances that their rights were both permanent and secure.<sup>294</sup> The regulatory

Provincial Control of Timber Rights: (cont'd)

powers embodied in this Act were really quite weak, in spite of the fact that this Act was to be the major legislation directing timber activities for the rest of the century. But had the Crown rights to the land been surrendered, as was the case in the mining sector, the situation could have been much worse.

With the increase in representation colonial financiers secured for themselves in the Legislative Assembly, pressure was exerted to revamp the method of Crown Land disposal. Another Committee of the Assembly tried, in 1854, to tie timber ownership to land grants. They could then presumably be sold outright, together with mineral rights, following in the American tradition. Since land development, railroad and U.S. timber interests were substantively represented on this Committee, such an approach was hardly surprising. Hoping to reinforce their arguments, they stressed that the Canadian lumber system was retarding settlement progress.<sup>295</sup>

The Canadian lumber interests protested this challenge and buttressed their counter-arguments with assertions that such changes would incur losses for the Provincial Treasury, that much of the lands were in any case unsuitable for agriculture and that rampant speculation would be permitted to occur. Obviously, Canadian operators did not want to lose the advantages of a forest tenure system which so admirably suited their needs.<sup>296</sup> But at this point, they did in fact feel squeezed by the increasing settlement; as the value of their timber limits grew, the amount of capital tied up increased. They thus called for a land classification policy which would maintain agricultural lands distinct from those non-arable timbered ones.<sup>297</sup> Apparently, it was anticipated that a permanent timber reserve system could be set up for exploitation by the industry without encroachment by settlers or Indian reserves.<sup>298</sup> And because the bulk of the valuable timber lands did turn out to be located on poor farming territory, the industry could isolate itself from southern demands to open up the Northwest to settlers,<sup>299</sup> and could supercede Indian hunting rights on surrendered Crown lands.

Provincial Control of Timber Rights: (cont'd)

Post-Confederation sources of timber revenue had to date been confined to fees, licenses, Crown land leases and direct taxes. Increasing demand for dwindling forested tracts soon caused the industry to supplement fees with added "bonuses", largely because acquisition of cutting rights was becoming a highly competitive business.<sup>300</sup> And as Provincial obligations grew, and the needs for increased revenue multiplied, the Provincial Treasurer would periodically authorize the Commissioner of Crown Lands to auction off another group of timber permits.<sup>301</sup> The ostensible reason usually given for these auctions was that the danger of fires caused by encroaching settlers and proliferating railroads necessitated the sale of these limits before they were uselessly burned, and those revenues lost. It was more than coincidence that a large number of auctions took place immediately before provincial elections, when the party funds were most desperately needed. This was a practise that continued, along with other questionable customs, well into the early 1900's.<sup>302</sup>

The diversification of various economic activities in the north west part of Ontario led, in the 1880's, to further escalation of lumber-related business. A boom in Rat Portage, produced by an 1882 gold discovery, combined with the subsequent expansion of Ft. William and Port Arthur as grain and tourist loci, to increase demand for forest products.<sup>303</sup> Lake of the Woods became the focus for Ontario lumbering during the 1890's, a situation that was made possible by the extensive waterways of the area and the stripped condition of the eastern forests.<sup>304</sup> The proximity to U.S. markets also aided this regional development and sawmilling sprang up in many locations. The desire of Ontario to locate pulp mills within this region was frustrated by the scarcity of capital and the abundance of pulpwood in the U.S.A. To counter this situation, conditions of tenancy began to be built into sawlog and pulpwood timber licenses. Protective tariffs were requested from the Dominion to curtail the massive export of unprocessed forest products to the U.S.A., and to encourage in-Province manufacturing. In the face of Federal inaction, Ontario passed an amendment to the Crown Timber Act in 1898,<sup>305</sup> the upcoming Provincial elections and the lobbying strength of the Lumbermen's Association had made their impact. But the Dominion objected to Ontario's 'economic nationalism' in protecting the

Provincial Control of Timber Rights: (cont'd)

western lumbermen,<sup>306</sup> even though it was claimed to be in the "public interest". Canada was more interested in extracting trade concessions from the U.S.A., and on that basis, claimed Ontario's legislation was "ultra vires" provincial jurisdiction.<sup>307</sup> Ontario's counter-thesis, as supported by the courts, contended that it was merely exercising its right to alter license conditions on a yearly basis, specifically since the Crown lands were in the Province's public domain.

Still, it seemed that economic conditions, and not Provincial policy, were determining the scale and pace of industrial development. And in spite of Ontario's apparent victory over the Dominion in exercising its rights, the prohibitions on the export of unprocessed pulpwood and timber remained poorly enforced. The development of the timber industry around Rainy River and Lake Nipigon continued until 1914, at which point a collapse set in, due to fiscal scarcity, the migration of operators to the greener pastures of B.C. and the overexploitation of the forest resources.<sup>308</sup> Even the massive subsidies which had been sponsored by the Provincial Government in supplying cheap hydro-electric power to the pulp and paper mills, in an effort to co-locate power and manufacturing, did not keep the industry viable. The historic mismanagement and lack of field control displayed by the Crown Lands Department conspired to promote speculation on a large scale. The lack of competition for pulp concessions, the cheap land sales allegedly destined for mine development on which the forests were stripped, and the speculative trading in timber rights, resulted in the scandal of 1900. Preferential treatment of party supporters, party graft and near criminal negligence were the charges levelled against the Liberal Government of the Province.<sup>309</sup> The case indicated the depths to which industry-Government ties ran, so much so that the 1905 creation of the Lands, Forests and Mines Department did little to alleviate the deep-seated malaise.

When the Department of Lands, Forests and Mines did assume authority under the new Conservative administration, it played the same role as did its counterpart - the Bureau of Mines: it evolved to provide technical and informational support to the pulp and paper industry,

Provincial Control of Timber Rights: (cont'd)

becoming involved in conservation schemes only 20 years later. Forestry schools, created to encourage "efficient forest utilization" were financed through the public purse for the direct benefit of the private enterprise.<sup>310</sup>

Externalized effects upon the Aboriginal people of the region, consequent to this government-sponsored growth, were hardly progressive in nature. Being symptomatic of the nature of industrial growth, the timber and pulp industries inevitably produced conflicts which impacted on overlapping renewable resources utilized by the indigenous peoples of the area. Clear cutting of forests, a disastrous activity on its own, also impeded Aboriginal utilization of the valuable caribou herds in the north-west part of the Province.<sup>311</sup> Major log drives, using extensive water systems of the north-west to provide free transportation of logs to market, adversely affected fish spawning areas, gouged out lake bottoms and disrupted regular fish migrations upon which the Aboriginal residents so heavily depended for subsistence.<sup>312</sup> As late as 1972, log drives were the major transportation networks about Lake Nipigon and Nipigon River, and the spin-off social and environmental costs were still not born by the industrial users. A decline in hunting success and the overall reduction of trapping returns were both direct consequences of the timbering as well.<sup>313</sup> Severe disruption in the ecological balance of many regions was so extensive that a minimum of 10 years would be necessary for a significant revival of animal population.<sup>314</sup>

It was hardly a secret to the Government that these effects were taking place. As we will discuss more extensively in the next section, the compounded effects of building hydro-electric facilities only added to the disruptive forces of cutting, transportation and milling of pulp and timber in this area. The petitions sent by the Aboriginal people, through the period of 1880's to 1930's, sought to have the Government protect their fish and wildlife resources. But the influx of Government geologists, timber estimators and surveyors during this period demonstrated the lack of empathy which the Ontario Government possessed for the Metis and Indians.<sup>315</sup> It was easy to rationalize that growth of regional industrial activity would generate increased wage employment opportunities for Aboriginal people.

Provincial Control of Timber Rights: (cont'd)

But the low pay and the temporary nature of this seasonal work hardly compensated for the disruption of a long-standing way of life, nor the social upheaval it produced - particularly since the people directly affected were never consulted or informed before hand on what effects the "glories" of regional economic expansion would have.

Ontario policy-makers perceived that an increased demand for newsprint and the associated growth of secondary industry in the western part of the Province should supercede all other regional policy objectives. That Indian reserves might be flooded, or that a large number of Metis communities disrupted as a consequence of hydro-electric dams and fluctuating water levels, was somewhat unfortunate. It could not, however, conflict with Government priorities to supply cheap power to the region as it sought to encourage investment and relocation of industrial concerns. This perception leads us to the next area of consideration, wherein the causes and effects of hydro development around the Lake of the Woods and Rainy Lake will be treated.

Industry-State Relations in Early Hydro-Electric Development

Towards the end of the 19th Century, the resource opportunities within the Province of Ontario began to open up. State support for exploration and development interests began to bear fruit, particularly in the western region of the Province. Investment opportunities were strongly encouraged by an anticipated growth in electrical generation facilities and the promise of proliferating distribution networks. To that point, however, the local production of electric power had been largely controlled by private enterprises and coalitions of municipal authorities.<sup>317</sup> It appeared unlikely that small-scale production units would be able to carry the costs of the future developments since huge capital investments were required to develop the infrastructure of any distribution network. Furthermore, the Province was becoming wary about allowing such an important area of economic control and political sensitivity to remain in the hands of monopolistically-oriented foreign investors.

To halt progress in this direction, there arose intense lobbying activity by Canadian merchants and smaller manufacturers, who banded together with the municipal power corporations, in trying to stem the growing American control over Ontario's power production.<sup>318</sup> The influence of foreign capital, and lack of Provincial control in the power sector, eventually led to the growth of public power advocates. This force, led by Adam Beck, succeeded in overcoming the Province's initial hesitance to support state control of this sector, and led, in 1910, to the creation of the Hydro Electric Power Commission of the Province of Ontario.<sup>319</sup>

Ontario thus succumbed to its own propaganda, and in hoping to become part of the great industrial dream, foresaw this opportunity as a means to gain access to substantial provincial revenue. The earlier American initiatives at Niagara Falls had demonstrated in 1896, that electricity could be successfully transmitted by wire; it had also demonstrated that American control would continue to relegate Canadian needs for power in the back seat.<sup>320</sup> It was hoped that the Commission, responsible to the Cabinet, not the Legislature, plus the Province's control of riparian rights

Industry-State Relations: (cont'd)

as exercised through leasehold tenure, would collectively protect the welfare of the State. As it turned out, the Provincial nationalization of most hydro resources had very little to do with any socialistic precepts in protecting the public interest; it was purely an exercise in state capitalism which pursued priorities and perspectives indistinguishable from those of the private enterprise.<sup>321</sup>

Before and after the advent of the public power advocates in Ontario, there continued to be some private capital invested in power developments. As Niagara was the focus for early eastern activities, the Lake of the Woods and Rainy Lake were its western counterparts. In many ways, the west looked more attractive to resource investors because there were less conflicts presented by the agricultural sector, and the region presented the highest potential for developing exploitative enterprises like mining and timbering. Inevitably, there arose the question surrounding interlocking interests and directorships in various companies: those parties which wanted their mines and pulp mills supplied with power were most likely to achieve that end by acquiring interest in power corporations. An evaluation of the worth of the water power was still an open question and consistent methods to dispose of this right had yet to be determined.

The Province thus instructed E. B. Borron, in 1898, to report to the Royal Commission on Minerals in Ontario. He was to assess the potential for development of the Province's water power resources in the west, as well as what connection should exist between land sales and riparian ownership. Borron posited that the provincial economy would profit most if all of its water power rights were not sold off. He suggested, instead, that they be leased on a yearly basis to provide annual income, maintaining the riparian ownership for the Province. Of greatest significance, felt Borron, were the northern and western parts of the Province where unsettled areas contained large-scale undeveloped hydro potential. It was important to avoid past mistakes, where freehold land owners had been permitted possession of riparian rights to whatever water powers existed on their properties.<sup>322</sup> This point had also been a source of contention relative to

Industry-State Relations: (cont'd)

Indian reserves as we discussed previously. Borron's influence on the Commission was considerable, especially when one accounts for the prestige accorded him from his activity in mining promotion generally, and in the Algoma industries specifically.

In 1898, the Province acted by passing a Bill to reserve to the Crown all of its unalienated major water power resources.<sup>232</sup> The need for such a Bill was obvious for the operational land granting process had allowed a large number of waterfalls to pass into private hands through the ineptness of the Crown Lands Department. Earlier regulatory attempts to sell lands on only one side of a stream had failed miserably, and substantial losses in riparian rights had occurred. This Act sought to provide that the usufructuary right to water would remain unattached to the riparian ownership. This perception soon came to be contested when the Town of Kenora sought to expropriate water rights and lands from the Hudson's Bay Company and the Keewatin Power Company.<sup>324</sup> The argument centered about beds of non-tidal navigable waters, and the revenue that was to be lost by expropriation of their hydro-power rights. Because the Crown retained navigable waters in trust for public use, would prosecute obstructions to the exercise of that right, and could alienate that right only by specific grant, the plaintiffs had no case. The Judge ruled that private owners on the shores of navigable waters could not inherit that Crown right. He also held that though owners of soil bordering navigable waters flowing past their lands, they were not, on this basis, given the ownership of the soil in the bed of a stream or lake. Because this "Ad Medium" rule did not apply to the waters under dispute, the Companies having no exclusive rights to them, compensation was to be based on the value of the expropriated land as enhanced by the Companies' other riparian interests.

The necessity of the 1898 Act was therefore vindicated. Water power rights could henceforth be disposed of only through lease, included in which would be terms of default. Rental terms for the riparian rights were, in addition, to be negotiated based on development costs and rates of return. These conditions sounded much better than was their effect for

Industry-State Relations: (cont'd)

the rents turned out to be ridiculously low. Ontario began to formulate a resource policy in this area, as it had in mining and timber, which promoted industrial growth at the expense of the public interest; the exclusive nature of the power leases prevented any competition and tied huge areas of forest acreage to riparian rights on water bodies.<sup>326</sup> And along with the resource give-aways came the absence of effective Government regulation to control the wide-spread effects generated by hydro-electric dams and storage facilities. Development about the Lake of the Woods poignantly highlighted the conflicts experienced by indigenous people faced with large-scale eco-logic disruptions.

The political context in which western hydro-electric power generation grew was strongly influenced by the historic border disputes between Ontario, Manitoba and the Dominion. The bases of those relationships have already been discussed in detail, so it suffices to mention that the drainage basin in the Lake of the Woods supplying both Provinces invoked old jurisdictional contests. One outlet to the Lake was controlled by the Kenora Power plants, and the other by the Norman Dam, constructed by the Keewatin Power Company. Though initially constructed to generate electrical power, the Norman Dam was also intended to regulate the water levels on the Lake, allowing improved navigation conditions to evolve.

Having acquired the management rights to the Lake from the Department of the Interior, the Federal Department of Public Works signed an agreement with the Keewatin Company in 1898.<sup>327</sup> The Company was to modify the dam and regulate the water according to Government determined levels. Should the Company need power for generation, the agreement could be cancelled on 30 days notice, but the waters still to be held at the ordinary summertime level. As it was subsequently shown, this type of loose control was ineffective, allowing flooding and extreme water level fluctuations to occur.<sup>328</sup>

The basic understanding which underlay development of industrial water-uses assumed that conflicts generated between white economic activity

Industry-State Relations: (cont'd)

and Aboriginal usufructuary rights would be resolved in favour of the whites. As early as 1875, instructions had been issued that specified trade-offs between Indian/Metis fishing rights, and development of locks and canals, were to be resolved in favour of the latter. If fishing areas were proven to have been adversely affected, Aborigines would "be fairly dealt with in consequence."<sup>329</sup> The water regulation, though, affected not only the fisheries in the Lake of the Woods and the Rainy Lake areas, it flooded the Treaty 3 Agency Reserve (#18A) in 1916,<sup>330</sup> destroyed extensive stands of timber around the water margin and impaired the trapping success of Aboriginal people from Rainy River to the Lake of the Woods. Since the Rainy River Reserves had been surrendered the year before, consequent to the pressures previously discussed, these lands reverted to the Province. One cannot, therefore, help but wonder why extensive flooding of this area occurred but one year after the surrenders and what involvement the Provincial Government had within this context. It was well known that flooding of the area might take place as early as 1905,<sup>331</sup> consequent to actions by the Minnesota Power Company, but little regulatory capacity existed on either Federal or Provincial levels to prevent it from happening. Even the 1909 creation of the International Joint Commission to deal with boundary water questions produced little immediate results. Constant damage to wild rice crops and trapping seemed to make little impact on the Governments, for it was only indigenous people being affected. But when white residents on the south shore of the Lake complained about artificially high levels of the Lake of the Woods, and demanded compensation for damages, joint Canadian-American meetings were called in 1912, to resolve the outstanding rights and obligations. One recommendation offered, in 1917 by the Joint Commission, involved increasing the capacity of the Rainy Lake reservoir and utilization of the Norman Dam for regulating purposes. While this measure might have profited the residents living below the Dam, it actually exacerbated the seasonal fluctuations of water both upstream and downstream. For by 1919, there were two power plants owned by the Lake of the Woods Milling Company, one by the Town of Kenora, and Norman Dam, owned by the Keewatin Power Company,<sup>332</sup> and others in the works, at the outlet to the Lake of the Woods. Some effective centralized control was urgently necessary.

Industry-State Relations: (cont'd)

With the 1919 purchase of the Keewatin Lumber Company and the Keewatin Power Company by E. W. Backus, American interests were gaining a solid grip on power development in the western part of Ontario. This was reinforced by Backus' attempts to purchase the Kenora Power Plant, giving him effective control of both outlets to the Lake of the Woods. Furthermore, he had been given the right, by the Department of Lands and Forests, to flood any Crown Lands which he deemed expedient, subject to "the rights of all private owners of property who are liable to be affected by the development of water power at the said rapids, or the storage of water in connection therewith."<sup>333</sup> The Province provided such liberal terms because Backus proposed to build a pulp and paper mill at Kenora. And to further ensure the profitability of this mill, the Minister of Lands and Forests was going to tender a huge block of timber land near Kenora, requiring the licensees to use the Backus mills, insuring continuous business for the plant and insured earnings for the investors.<sup>334</sup> To counter American continentalist economic pressures as reinforced by tariffs and barriers, almost any length would be pursued to encourage manufacturing and refining capacity in Ontario. Concessions and incentives provided Backus were quite typical of this Provincial policy direction, for it sought to encourage western industry as it had previously done in the east.<sup>335</sup> The proliferation of mining companies applying for water power leases increased in the region as further gold discoveries were made.<sup>336</sup> An economic boom seemed to be developing at last.

To control this increasing influx of water users, many of whom had conflicting claims, the Dominion appointed the Lake of the Woods Control Board in 1919 to control and conserve the regional waters for navigation and power development. The authority was to be split with Ontario, where the mandate would be to regulate water levels in Winnipeg River, establish operational regulations and deal with representations or complaints. Ontario only agreed to the desirability of this approach in 1921 and the Dominion then submitted to Parliament proposed Lake of the Woods Control Board Act.<sup>337</sup> Ontario, however, could not get the required concurrent legislation passed through the Provincial Legislature; the local M.P.P. from Kenora and both

Industry-State Relations: (cont;d)

opposition leaders forced Premier Drury to withdraw the Bill.<sup>338</sup> The Provincial objections perceived this Federal direction as usurping Ontario's jurisdictional control over inland water systems and felt that the Act was generally "obnoxious" to Ontario's interests.<sup>339</sup> Under the guise of navigation control, the Dominion was accused of seeking to interfere with Ontario's power developments. The Legislature was particularly sensitive about surrendering Ontario's power to a control board, especially when the Board allowed the Dominion tie-breaking powers. Also important to Ontario legislators were the levels of wildly fluctuating water about Kenora, and the Federal control exercised since Confederation which had been maintaining water levels for the benefit of Canada - not Ontario. The Kenora MPP felt that his riding was losing valuable power potential by Federal mismanagement, especially in the Spring. This could only be worsened, he said, if the Control Board assumed Ontario's jurisdiction and gave their power rights to the Winnipeg interests.<sup>340</sup> The Federal Act seemed to endanger the Province's plans for western industrialization, for pulp and paper companies around Kenora would not expand unless commitments for cheap power were provided them.

The Prime Minister Meighen then pressured the passage of the Bill through Parliament in 1921, and for the general advantage of Canada, included control of the English and Winnipeg Rivers under exclusive Dominion control.<sup>341</sup> The Dominion was apparently attempting to include the interests of the Winnipeg power needs, for Manitoba demanded access to the Lac Seul and Lake of the Woods systems. Accusations then began to fly fast and furiously. The Kenora pulp and paper concerns charged the Winnipeg Power interests with using the Federal Government to have water levels lowered below what the recommended standards were, and hence, produced power losses.<sup>342</sup> Ontario's Premier accused the Dominion of further eroding Ontario's constitutional powers and threatened that he would initiate litigation.<sup>343</sup> Meighen protested that he was only protecting Federal waters in exercising national sovereignty, insuring the freedom of navigation and controlling private industry (like Backus and the Norman Dam) for the public interest. No choice was left to him but to exercise unilateral control.<sup>344</sup> Neither man was being

Industry-State Relations: (cont'd)

particularly honest for Drury failed to mention the extreme pressure being placed on him by Backus to continue sponsoring his power company; Meighen failed to mention the Dominion's intent to step in and control the Norman Dam, without offering any compensation, should it ever affect navigation, for the Dominion had never given permission to Backus for construction. <sup>345</sup>

Added to this inferno were the protests coming from Manitoba. That Province's former Premier objected to the control Backus had been given over operation of the Norman Dam, complained that his Province's power potential was being interfered with and pressured for stronger Federal authority in water control.<sup>346</sup> Only with the election of MacKenzie King was a negotiated settlement attempted. The Dominion would revoke the Federal Act upon passage of a concurrent Ontario Bill,<sup>347</sup> the Norman Dam would be expropriated by one of the Governments, and the Control Board would assume control of the Lake of the Woods area.<sup>348</sup> Manitoba acquired water for its developments on Lac Seul, Ontario secured firm jurisdiction over disposition of its riparian rights and the Dominion insured that its control over border waters and inter-provincial conflicts was intact.

While this agreement seemed to settle the rights to license and control expanding power facilities, it by no means insured that the attached responsibility to properly regulate these activities would be forthcoming. Although Ontario did pass the legislation required by the Agreement,<sup>349</sup> its predisposition seemed to be oriented towards large-scale development of the area. The Province and the large lumber and milling companies in the Rainy Lake area wanted international agreement achieved even though the data base was very incomplete. Only then could Backus expand his electric generation facilities at the Ft. Francis International Falls, expand the Kenora mills, and provide a connecting power line to Minnesota. That the International Joint Commission had recommended, in 1917, that Rainy Lake be expanded as a reservoir for water regulation, ideally suited the interests of the Minnesota Power Company - Backus' property.

Industry-State Relations: (cont'd)

Countering this Provincial pressure were the Dominion hydrographers who testified that the Lake of the Woods Control Board was inefficient and could not control the water levels adequately. They pointed out that the people on the south shore of the Lake of the Woods who had been flooded out still had not been recompensed, and that so little data was available, it would be embarrassing to try to conclude an international treaty.<sup>350</sup> Fort Francis representatives objected to raising the level of Rainy Lake, for extensive dyking would be necessary to stop flooding of the town. They also objected to the Lake being used as a mill pond for the benefit of Kenora, the Lower Winnipeg Power interests and Backus' personal profit.<sup>351</sup> So confused was the issue, that it was referred to the International Joint Commission in 1925. A report was not forthcoming from it until 1929. Passage of the Lac Seul Conservation Act in 1928 attempted to resolve some disputes which overlapped more than one jurisdiction: Canada was to assume costs and responsibility for further power development and navigation on the Winnipeg River system, and Manitoba would bear a proportional part of the power development costs. Ontario preferred to exercise complete control over its hydro power, and so, was not party to this Act.

The disputes and deputations typically failed to consider non-industrial users of the region whose interests were affected by the uncontrolled fluctuations in some areas and artificially static water levels in others.<sup>352</sup> Compensation for damages done to reserves in the area, particularly along the "2 chain-width" reservation of reserve frontage bordering the water, was rarely raised as an issue. This might have proven to be an interesting contest, for the Province, in claiming these lands bordering Indian (and Halfbreed) reserves as provincial property, presumably tried to avoid liability to the Dominion for the lands flooded when the water levels were raised. It was made very clear by Indian Affairs that this land remained the property of the reserves, it was understood to be so by the Aboriginal people, and the Crown was merely permitted the privilege of specified uses of this land, as outlined to a Treaty 3 communique.<sup>353</sup>

Industry-State Relations: (cont'd)

The notions involved in public property are thus well illustrated in the area of hydro-electric power development. Without a vigilant protection of its constitutional rights, Ontario never would have been able to so quickly promote the infrastructure necessary for industrial expansion. Nor would it have been able to direct to revenues derived from leases, rentals, licenses etc, into its treasury, for much of that income would have been siphoned off by the Dominion. Public ownership of a resource like hydro power became very important, therefore, in fulfilling the various policy goals generated by the politicians, a resource whose value was enhanced by its constitutional exemption from federal taxation.

(c) Commercial and Subsistence Fishing Disputes

Yet another significant area of resource conflict between Federal and Provincial authorities concentrated on the fisheries of the Great Lakes and western Ontario lacales. It was a situation which again evolved from the inconsistencies and ambiguities embodied in the B.N.A. Act, having direct application to both Aboriginal and white residents. Both levels of government desired to exercise control over the fishery resources, for a substantial amount of revenue accruing from licenses was at stake. It was only natural that each should assume the dominant role in legislation and regulation.

The catalyst which promoted the eventual confrontation was, as in most other jurisdictional disputes already mentioned, the degree of legitimate control each government was legally entitled to exercise over Aboriginal people. An additional factor adding spice to this contestation was the involvement of American interests because a lack of international control had allowed the fisheries in the Great Lakes and the Lake of the Woods to quickly decline in productivity. The recognized lack of power by the Canadian Government to stop American overfishing encouraged continued commercial encroachments by U.S.A. fishing fleets.<sup>354</sup> Almost irresponsibly, the Federal Government gave over its regulatory responsibilities to the International Fisheries Commission, whose British Commissioner, Commander Wakeham, categorically asserted that there would always be sufficient fish for the Indians.<sup>355</sup> That the International Fisheries Commission, like the International Joint Commission, was a powerless body was a foregone conclusion. But to ascribe the lack of fishing success by the Indians at Rainy River, Garden Island and other locales as a product of their laziness, and their habits of robbing white pound nets,<sup>356</sup> was to demonstrate sheer stupidity and ignorance of the resource's characteristics. The Annual Reports of the Indian Affairs Department had been for many years demonstrating the decline of Indian catches as American commercial fisheries expanded without checks on them.

Fishing Disputes: (cont'd)

The collapse of the rice crops, topped by the scarcity of fish, caused the Aboriginal people around the Lake of the Woods, the Great Lakes and the Rainy Lake to pressure Indian Affairs for the imposition of some control.<sup>357</sup> The dangers of overexploitation were well known to the various bands and villages across Ontario, but the numerous petitions seemed to make very little impact.<sup>358</sup> Even one of the Commissioners from Treaty 3 commented upon the situation, stating that the Indians (and Metis) "never contemplated that there would be such a run on their fisheries by the white man as has since occurred. Otherwise the clause in favour of the Indians would have been made stronger."<sup>359</sup> For Dawson noted that not only were the Indians and Halfbreeds losing access to the fish, their rights secured under Treaty were being curtailed in favour of unhindered commercial exploitation. He clearly stated that "it would be difficult to find any justification for the manner in which the Indians, more specifically those of Rainy River and the Lake of the Woods, have been treated in regard to their fisheries."<sup>360</sup>

But in spite of usufructuary and treaty rights, the Indian Affairs Department, in association with the Federal Marine and Fisheries Department, wanted the Indians to fish under license. The logic, according to Hayter Reed, was that "it would bring the Indians into sympathy with the regulations, and so not only save the Department of Fisheries exercise in watching the Indians but also the halfbreeds and whites," for the Indians would then supposedly form a voluntary preventative force acting in the interest of the Fisheries Department.<sup>361</sup> That halfbreed fishing rights now came to be equated with those of whites, rather than with those of their Indian relatives, was one change in Federal policy. That a licensing system was initiated under Federal control, including Indians in the process, was yet another innovation, a policy which Ontario protested against most arduously.<sup>362</sup>

Back in 1887, the Deputy Minister of Fisheries issued a directive respecting title to the property of fisheries in Ontario.<sup>363</sup> Fish located in public navigable waters like the Great Lakes, and the Lake of the Woods, were to be vested in the Crown in the right of Canada. Title to fisheries in private or non-navigable waters, which passed through ungranted

Fishing Disputes: (cont'd)

lands, were vested in the Crown in the right of the Province as riparian proprietor; those passing through granted lands were vested in the riparian proprietor. The Dominion would not recognize any Provincial legislation outside of these delineated areas. To reinforce this position, the Deputy Minister of Marine and Fisheries instructed the Ontario Commissioner of Crown Lands that some of the provisions contained in the Ontario Fisheries Act<sup>364</sup> of 1885 were objectionable. They were seen to exceed the boundaries of the Provincial mandate as stipulated in the B.N.A. Act's Sections, 8, 9, 11, 12, 15, 16, 17 and closed season provisions.<sup>364</sup> Fishing licenses which Ontario intended to issue for gill nets in the waters adjacent to unleased Crown lands, (except in Lake Nipigon and Nipigon River), could be construed to include the Great Lakes, the Lake of the Woods and other navigable waters. This action was seen to conflict with Federal rights, since Parliament could "legislate respecting sea-coast and inland fisheries...and...enact laws with respect to the fisheries without reference to either Dominion or Provincial ownership of the bed of the Lake or River itself."<sup>366</sup> But bearing in mind the extensive fishing interests of Lake Superior, Lake Huron and Georgian Bay, a redistribution of the fishery districts was carried out under an 1890 Order-in-Council.<sup>367</sup>

To further reinforce Federal control over fisheries, a system of Overseers/Officers was created by the Fisheries Department, to monitor and enforce the laws. They were given the right to "exercise magisterial powers ex-officio for all the purposes of the Fisheries Act and the regulations made under it."<sup>368</sup> Although only experimental in nature, a system of fees was imposed for various types of nets, fees which were quite exorbitant and beyond the means of most small, self-sufficient fishermen - particularly the Aboriginal people.<sup>369</sup>

In 1889, it was recognized that the Dominion's program to control fisheries by license issuance contradicted certain decisions being made in Canadian courts - especially with respect to riparian rights in non-fluvial streams. The Department of Fisheries stated that it would hold in abeyance

Fishing Disputes: (cont'd)

the execution of Dominion plans, pending completion of the cases still before the courts. It would, however, attempt to reach a conclusive and binding decision respecting fishery matters. But since the Federal Government continued to ignore the advice and complaints of the Indians, still believing that the fish numbers were unlimited, it continued to assign blocks of water to white fishing outfits in the Rainy Lake and the Lake of the Woods. They were to be "confined as much as possible to bona fide fishermen in the district of the Lake of the Woods",<sup>370</sup> and Metis or Indians were given no preference in the assignation of the commercial licences. Their rights were in fact often undermined as white entrepreneurs and corporations increased their profitability. This conflict between commercial and non-commercial users grew, in spite of the fact that limited pound and gill net fishing was supposed to be permitted the local residents in the Lake of the Woods, for personal use and for trade requirements.<sup>371</sup> Of the 3,750,000 lbs. of fish caught commercially in the Lake of the Woods, 1,970,000 lbs., came from the Canadian territories,<sup>392</sup> its value approaching \$100,000.000.<sup>373</sup> That over-fishing was eliminating whitefish and other species in the rush to supply American markets, thus undermining the remaining elements of Aboriginal self-sufficiency, was well known by the various branches of government. Even Dawson's constant badgering of the Indian Affairs Department produced little result, and his recommendations to allow the local Natives preferential fishing access to their principle sources of food went unheeded.<sup>374</sup> By 1896, 11 large areas had been licensed for pound net fishing (for sturgeon), wherein 84 individual licenses had been issued. This only covered the southern part of the Lake of the Woods; the northern part was even more heavily licensed for gill net fishing.<sup>375</sup>

It was not only the Treaty 3 area which was subject to extreme commercial fishing pressure, and thus, to conflicts for indigenous users of the same resource. Lake Superior's eastern arm was also under heavy fire from the American fishing fleets, and Metis on the north shore of the Lake were squeezed out of the commercial business by both legislation and preferential treatment of the foreign operators. Larger was always equated

Fishing Disputes: (cont'd)

with better, and the illusion underlying "economies of scale" failed to account for growing local unemployment. Traditional rights were quite conveniently forgotten by the tunnel-visioned regulators.

Towards the end of the 1800's, Ontario was not especially pleased with the degree of control the Dominion continued to exercise over its fisheries. The Federal appointment of fisheries officers was particularly noxious to the Province, and it was felt by Ontario's Attorney-General that they:

Should insist in the very strongest manner upon our rights before the Court and in argument, whatever they may be: indeed, I think we have the exclusive right of making these appointments.<sup>376</sup>

To assert its own independence in this resource sector, Ontario tried to establish an enforcement system which would uphold its 1885 Fisheries Act. An 1887 Order-in-Council was thus created in which every Crown Land Agent, Free Grant Agent, Woods and Forest Agent, Bush Ranger and Fire Ranger was empowered to prosecute persons guilty of contravening provisions/requirements of the Act.<sup>377</sup> Needless to say, the training and expertise of this enforcement group was quite low in quality and highly discretionary in nature. It was true that the Regulations which Ontario passed,<sup>378</sup> and appended to the preceding Act, attempted to prohibit wasteful or excessive fishing in rivers, lakes and streams adjoining public lands. But the tone of this licensing system for non-navigable waters imputed the existence of a greater concern for revenue than for serious regulation of fishing and waste disposal.

The agreement reached between Federal and Provincial Governments in 1932 allowed the Dominion Fisheries legislation to prevail in dealing with fish in inland provincial waters; the Dominion would regulate modes of capture and establish fishing seasons. The Provincial rights of property would be recognized as being fisheries in the right of the Province.<sup>379</sup> In effect, while the Federal Fisheries Act would be utilized, Ontario would control the fisheries by exercising all the enforcement capacity necessary

Fishing Disputes: (cont'd)

in the Province. By controlling the regulations and directives, Ontario was permitted to establish a unilateral policy with respect to Aboriginal people, one whose implementation came to be very inconsistent.

But in spite of Ontario's curtailing Lake of the Woods people from pursuing their legitimate hunting and fishing rights, the Federal Government took very little action to redress those wrongs. When in 1929 the Supervisor of Indian Timber Lands protested the starvation of Lake of the Woods Indians, their having been refused licenses to fish by the Ontario Government in favour of white commercial fleets,<sup>380</sup> Indian Affairs preferred to turn a blind eye. That game wardens continued to persecute Aboriginal people so that they were "physically suffering from the wrongful treatment meted out to them by the Province,"<sup>381</sup> wherein their boats and nets continued to be seized through the years,<sup>382</sup> such an approach seemed to engender little conflict within overall Provincial and Federal Aboriginal policy. Indeed, increased dependency and an encouraged reduction of traditional land-use practices had been policies pursued by Indian Affairs from its inception. They were also well suited to Ontario's growing management role, where indigenous rights and traditions were the elements consistently traded off in attempts to promote provincial industrial resource development. Should Indians and Metis be forced into a wage economy, or even better into southern urban environments, an added bonus was provided the Province.

### 3. APPLICATION TO ROBINSON TREATY AREA

All of the factors which have just been examined in association with the Treaty 3 area proved equally applicable to the Robinson Treaties region. In fact, the patterns of development and the contexts in which decisions were made were largely the same, even though they developed years earlier. Disregard for serious Aboriginal participation or consultation within the formulation of provincial resource policy was equally manifested in the Robinson region, so much so that the pro-industry biases inherent in the way Aboriginal policies and programs were implemented allowed the impacts of various resource sectors to be focussed on Metis, and Status peoples. The existence of Sault Ste. Marie as a nucleus for extensive Metis settlement may have, in some cases, even exacerbated the seriousness of the negative impacts experienced by the Metis.

The same formalized, legislatively reinforced relationships between state and business which developed in the western part of Ontario applied to the Robinson areas. Concessions were given developers and exploiters of resources to meet their needs, wherein organizational and promotional support was provided by the Province. Big-time American industrialists like Francis Clerque were given incredible incentives, based largely upon their unenforceable commitments to develop the regional economy. When enormously liberal stumpage rates were backed up by insured access to water ways, reinforced by provincially guaranteed cheap hydro-electric power and further provided with an insured market,<sup>383</sup> it is difficult to imagine how the "free enterprise" system could possibly have failed to prosper in Ontario. Provincial strengthening of mining through freehold purchases, leasehold titles and exploration permits allowed companies to explore hitherto uneconomic areas. Foreign-dominated consortia were encouraged to secure access to mineral-bearing lands, allowing mining frauds to be easily perpetrated.<sup>384</sup> Production, output and revenue soared astronomically for the mining companies operating out of the Robinson Treaty areas. Until 1917, rich deposits like the Cobalt silver mines literally went untaxed because of success of the mining lobby in influencing the Government.<sup>385</sup> Subsequent deposits at Porcupine and the northern Kirkland Lake areas were subject to even less

Application to Robinson Treaty Area: (cont'd)

royalty payments because of the accomodating nature of the Hearst administration. Money destined for public funds continued to remain in the hands of the private industry.

State intervention in establishing a suitable infrastructure for economic development was equally applicable to the Hydro-electric scene. To counter the cheap American coal feedstocks supplying U.S. industries, and to reduce foreign control in the mining industry, cheap power became a vital commodity. Without it, refining capacity could not be attracted to the Province and unrefined ores would continue to be exported. The lack of private capital to generate the electric-based technology was soon remedied, however, by the increasing dominance of the public power movement. Still, attempts to impose expensive export license fees on unrefined ores<sup>386</sup> were swiftly countered by the mining industry which was astute enough to promote jurisdictional disputes between Federal and Ontario Governments.<sup>387</sup> Convinced by the industry of the futility of restrictive operating conditions, the Ontario Government then provided greater incentives through 'bonuses'<sup>388</sup> and 'bounties' in 1907,<sup>389</sup> hoping to encourage refinery location in the Province. The "give-away" approach appeared to be the most efficient method to respond to the miners' wishes.<sup>390</sup>

Around the Sault, much of the power generating capacity continued to remain in private hands. Francis Clerque's huge Consolidated Lake Superior Corporation dominated the center of the Province with its multi-industry involvements and tied up the water power interest in the area. Rather than mediate this centralized control, the Province continued to encourage it by liberal subsidies and free land grants, free ore and pulp feedstocks and provincial guarantees for railroad construction - seeing the Sault as the future center for regional manufacturing.<sup>390</sup> The 1902 collapse of the Soo Industries and the subsequent 1904 government bail-out failed to change Provincial commitment to this policy direction.<sup>391</sup> Never did notions of mismanagement or corruption enter into the picture: there was to continue a provision of public funds for the support of floundering corporations.<sup>392</sup>

Application to Robinson Treaty Area: (cont'd)

The effects of uncontrolled mining unfortunately still were regarded as only a temporary inconvenience and not as a fundamental weakness of the Province's administration.

So while the benefits typically accrued to white industrial interests, the social and environmental costs through the Robinson Treaties region were carried by the Aboriginal people. Threats by the milling and smelting concerns to relocate outside the Province, unless they were given very liberal terms,<sup>393</sup> necessarily insured that Aboriginal interests were going to be sacrificed. The decline in fishing, hunting and trapping success was tied quite early to the increase of environmental contaminants spewing forth from the proliferating manufacturing operations.<sup>394</sup> Even prior to this, Ojibway and Halfbreed complaints, as reported by Anderson in 1848, detailed extensive blasting and fires which the 70 mining locations along Superior had been responsible for in unceded territories.<sup>395</sup> This type of situation was not atypical of the many officially condoned industrial activities by which the rights of Indians and Halfbreeds came to be subverted.

This assessment applies equally to the way in which the Province allowed itself to be swayed by the vilifications directed at the Government in the press. Ontario newspapers came to be staunch allies of industrial expansion and no words were spared in trying to redirect Government policy towards massive expansionism.<sup>396</sup> Equally distressful for Aboriginal people was the erosion of their fishing rights because of the consistent preferential treatment given to white commercial fishermen, to the detriment of the indigenous residents. It is contended by Metis residents living on Superior's north shore that this policy operates today as it did when the first licenses were issued in 1858.<sup>397</sup>

This reduced efficacy of fishing was added to by the unregulated timber activity about the Sault. Beginning in the 1860's, massive clear-cutting produced a severe clogging of streams and spawning areas, parallel

Application to Robinson Treaty Area: (cont'd)

to situations which still occur today. The negative impacts which these activities had on fish catches was further aggravated when the industry declined in the late 1890's, and the Metis and Indians depending on logging suddenly found themselves without work, as well as without fish.<sup>390</sup> Were these effects not enough, development of transportation systems to feed southern markets with hinterland resources came to be encouraged. Echoing MacDonald's national perspective, large expenditures were committed to railroad construction and operation by the Province, costs which were justified as being critical in promoting regional economic expansion.<sup>399</sup> Of course, the many mixed blood people who were subsequently displaced and evicted to make room for rights-of-way and terminals was a very minor consideration,<sup>400</sup> if it was accounted for at all.

In exemplifying the effects of unilateral provincial policy-making, this approach dealing with Metis people was instrumental in creating a class of dispossessed people whose long-standing ties, rights and title to the land and resources were trammelled underfoot, coming, therefore, to be considered as "squatters". The original Imperial 'Indian' policy goals to 'protect and advance' Aboriginal people became increasingly manipulated to suit colonial and Provincial needs. Both explicit and implicit Aboriginal policies came to hinge on Federal/Provincial jurisdictional disputes, where resource contests and constitutional conflicts became the most critical of determining factors. Moral and legal obligations to Ontario's Aboriginal people were soon quickly forgotten in the morass of legal arguments, making a parody of government platitudes which asserted:

The methods may not always have been wise but the will has always been good.<sup>401</sup>

IV. REGULATORY CONCEPTS AND STRUCTURES

To understand the reasons for the successes and failures of government in regulating natural resource activities - both commercial and subsistence - as well as their impacts upon Ontario's Metis people, a preliminary examination of the principles of regulatory processes is vital. Regulation, as a function of decision-making designed to serve the public good, is generally perceived to be an intervention in society by the creation and application of general policy.<sup>402</sup> It is a limiting process which imposes the coercive powers of the state by establishing rules of action to curtail undesirable actions by individuals or industry. Given this orientation, the state's authority generally comes to be imposed by statutory, quasi-independent agencies, whose mandate is supposed to be the protection of the public interest. As we have already noted in the past, confusion of the public interest and the private interest, as logical inconsistencies, seemed to generate little concern in the minds of public officials. The reasons underlying this attitude will be shortly examined.

Powers usually given the aforementioned agencies have tended to be quite broad, so that while they theoretically remained responsible to a Minister or the Legislature, their independent action was rarely curtailed. After the 1940's, enforcement agencies tended to increase in number, not in quality, within Ontario. It was a trend which kept pace with the continued lack of co-ordination between Federal and Provincial bureaucracies, allowing the repression of the Aboriginal interest to go unchecked. Prior to 1940, there was really no effective model for the construction or the operation of a regulatory body in Ontario.

It is worth bearing in mind that the level of discretion permitted an enforcement agency was usually linked to the specificity of the legislation or regulations the agency had to work with; the more general legislation obviously encouraged more independent activity. Regulations appended to rigorously phrased statutes usually required policy rules to be specifically applied, in a judicial manner, to specific cases. Legislative directives, on the other hand, allowed excessive discretion to be exercised - for the

Regulatory Concepts and Structures: (cont'd)

regulator effectively became a legislator in the exercise of his duties. This allowed undesirable situations to develop, for the regulators, in being given excessive freedom, permitted inconsistencies, biases and sometimes bribery to become enmeshed in the regulatory process.

In Ontario, as in the Federal system, operation of the regulatory process came to be of questionable integrity, for it permitted intervention by partisan interests to influence both the overall system and the senior officials designing enforcement policy and programs. Pressure from influential outside interests occurred in a variety of ways, but its prime purpose was to enhance corporated profitability. From the 1880's to the 1920's, political pressure groups achieved significant success in influencing political parties in Ontario. In seeking special concessions, resource industries seemed particularly adept at using political parties to gain access to the policy process.<sup>403</sup> The Provincial Premier's Papers in the Ontario Archives detail numerous instances in which political parties survived by catering to their client interests. This cozy relationship affected not only policy formation, but implementation as well - thus involving the areas of regulation and control.

Tied to the question of getting access to the decision-makers was an awareness of who the pressure groups were. In ascertaining which interests were being accommodated by Government in policy formulation, one can more clearly understand why the regulatory process came to be biased in specific directions. Existing studies of this area have effectively differentiated pressure groups as being either issue-oriented, temporary coalitions, or institutionalized, permanent organizations.<sup>404</sup> This analysis perceives that issue-oriented groups involve themselves in government operation when official policy comes to be closely associated with the ways in which people live. Representation of Aboriginal interests may conceivably be placed in this category. Because there is a close connection between people's lives and the constitutional mandates of provincial governments, substantial activity occurs at this level. Pressure groups oriented about

Regulatory Concepts and Structures: (cont'd)

issues are not necessarily guaranteed, by their mere existence, regular access to the decision-makers. Nor does their mere existence compensate for traditionally weak organizational capacity - vis a vis the institutional lobbies.

On the other hand, the highly organized and well-financed organizational lobbies, in which are represented the resource industries, are able to articulate their interests to the highest levels of government on a regular basis. By serving as direct participants in the formation and implementation of relevant policies, industrial interests developed a pattern of influence through executive access which Aboriginal people could never have hoped to achieve. Within the capitalist society of Ontario, this process was reinforced by the direct interchange of personnel between the governors and the governed, at the highest levels of decision-making.<sup>405</sup> Dating back to early provincial administration, the developing relationships between industry and government came to provide the resource lobbies with special influence and status. So close did the connections become that the effect on some agencies - like the regulatory bodies - was seen as their being "captured" by their constituency. The fact that the institutional groups maintained stable memberships, had extensive fiscal resources and demonstrated expertise within their field, further aided the success of their efforts.<sup>406</sup> A set of conditions was thus established in which the resource industries could gain government concessions in the areas of applicable legislation or relevant policy.

In dealing with the issue of provincial regulatory systems, one must question what the real level of Government accountability was to the public interest. The lack of independence of the agencies from the industries they were supposed to regulate undermined any credibility or authority they might have had. And the closed network of clientistic regulation became expensive and restrictive for interests other than the direct producers.<sup>407</sup> The democratic process was subsumed to the exercise of ministerial discretion, where even weak protective measures were frequently set aside, promoting it

Regulatory Concepts and Structures: (cont'd)

was claimed, necessary industrial expansion. Where industrial compliance with Provincial regulations was unavoidable, the politicians would feel it necessary to appologize to the companies for making them uphold the law.<sup>408</sup>

These trends in "corporatism", or institutionalization of Province-interest group relationships,<sup>409</sup> were quite visible when resource policy began to coalesce in the 1860's. Even the later exercise of Provincial control over state monopolies, like Ontario hydro, came to be quite a joke. The administrators may have really believed that utilizing discretionary economic tools, like the leasing of riparian rights, gave them some effective regulatory power. Were the regulators to have been disinterested civil servants, rather than ardent promoters of the various hydro projects, that case might have developed. Were default clauses found in riparian leases occasionally enforced, or public rate regulation appropriately utilized by the state, one could then say hydro-electric power development had some measure of control imposed on it.

And in the cases of timbering, mining and their associated manufacturing spin-offs - the Province's promotional support of these sectors was seen as a legitimate function, seeking to have its property profitably occupied. That this approach made a hypocrisy out of the regulatory battles the Province had fought the Dominion for, was a contradiction that bothered very few regulators. Even the retention of the Province's proprietary control over its timber lands was undermined by the way in which enforcement techniques were implemented. The farcical 1907-08 appointment of industry employees by the Crown Timber Agencies, where by statute and regulation the Department of Lands, Forests and Mines allowed the forest companies to monitor themselves,<sup>410</sup> was hardly a demonstration of protecting the public interest. Ontario's lack of commitment, as is still visible today, was demonstrated by the Province's antipathy to expend revenue on management personnel, or effective enforcement techniques. Good enforcement of poor laws, traditional wisdom has shown, is better than poor enforcement of good laws. The history of resource policy in Ontario indicated that there was little or no enforcement of relevant statutes until quite recently. Since the policy

Regulatory Concepts and Structures: (cont'd)

makers perceived the forests, mines, fisheries, game and water power to be sources of revenue, rather than a common inheritance upon which state monies should be spent, how could a serious commitment to protect, conserve or even manage the resources in a sane manner ever be manifested. Whatever enforcement and control measures existed seemed largely confined to the renewable resource sectors, an approach which inevitably conflicted with the traditional uses Aboriginal people made of the land. The extemporeaneous and highly arbitrary nature of enforcement in these areas only aggravated the protracted disputes between state-promoted industrial resource development, and indigenous rights to long-standing, renewable resource-based, subsistence economic activity.

Given these parameters surrounding the regulation and enforcement of non-renewable resource activities in Ontario, a variety of specific cases were examined which demonstrated the depth to which Metis rights had been unilaterally curtailed. Field work throughout the Province has indicated to us that the mechanisms initiated in early colonial Aboriginal policy, and subsequently translated into practise by Ontario's regulatory system, continued to pursue policies of containment, dispossession of legitimate rights and harassment techniques. Our wide-ranging data base underscored both province-wide consistencies and regional idiosyncracies in the application of predetermined Provincial policy.

To mention but a few of the areas studied, we came to examine the following specific conflict situations:

- The discretionary nature of hydro, timber and mining management as a reflection of state development priorities in the Robinson and Treaty 3 regions;
- the biased nature of license issuance to commercial white fisheries as it related directly to the level of capital investment; Lake of the Woods and Lake Superior regions studied as examples conflicting with Metis commercial ventures;

Regulatory Concepts and Structures: (cont'd)

- the introduction, rationale and implementation of the block trapping system in Ontario and its specific impacts upon people in the Nipigon and Kawartha Lakes regions;
- the introduction and methods of enforcement of hunting and fishing regulations in Ontario, tracing coercive techniques back to earlier jurisdictional conflicts with the Dominion authorities;
- the background to, and effects of, differentiated enforcement policies relating to on-reserve and off-reserve situations where subsistence hunting, trapping and fishing were practised;
- the creation of a constituency of "outlaws" from Metis people by introduction of unilateral legislation and forced non-compliance with restrictive regulatory instruments.

The main elements of the arguments, and the bases upon which they rest, are quite clear. It would be of great value to detail in depth the areas just mentioned, but that effort merits a separate treatment to do it justice. It is anticipated that such an opportunity will soon be provided this Department.

V. CONCLUSIONS AND OBSERVATIONS

The history of Ontario's laws and policies in dispossessing Metis and Non-Status land, resources and communities has been quite disheartening. Politically convenient, but nevertheless artificial distinctions created between the mixed blood people and their Indian relatives, generally emanated from the growth in Government-business appetities for ever expanded resource activities. The Aboriginal policies which we described as originating with the Imperial and Canadian Governments were subsequently adopted, and then distorted, by the Provincial authorities. These policies were implemented in such a vicious way, that they then became even less mindful of the needs, wants and rights of the people they were allegedly designed to protect.

The recently restated official position of the Federal Indian Affairs Department, which on one hand admitted to the highly discriminatory nature of separate legislation and administration for Metis, registered Indians and enfranchised Indians, then stressed that the road of different status led to a blind alley of deprivation and frustration.<sup>411</sup> Ontario's solution to this problem was to do indirectly what the Federal Government did directly - exclude from recognition Metis people in the formation of overall Provincial policy. This pattern was seen to be consistent over the post-Confederation era, for it was the framework of jurisdictional disputes and arbitration proceedings, and not the existence of antecedent aboriginal rights, which set the tone for Ontario's treatment of its indigenous population. The extreme lengths to which Ontario politicians and bureaucrats went, in securing for their industrial clientele permanent input into the decisions affecting them, only served as a contrast for the inexcusably poor representation allowed Native people's interests in the Ontario (and Dominion) policy process.

We have also indicated how Ontario's obsession with the control and management of Crown assets came to dictate the manner in which it would dispose of its land and resources. The wide-ranging activities of the industrial interest groups were also shown to have speeded up that process. Having progressed through interminable constitutional conflicts over resources, and jurisdictional disputes over land, the Province proceeded to

Conclusions and Observations: (cont'd)

undermine the integrity of those hard-won gains. Very liberal incentives, subsidies and concessions given industrial investors almost insured that conflicts of interest would become endemic, for those investors would vigorously protest any degree of state control or regulation. These protests were too often heeded by the Provincial regulators, unlike the deaf ears turned towards simultaneous Aboriginal complaints.

This same dichotomy existed wherein Metis rights were involved. The powerful administrative tools of land allocation and distribution, which the Province assumed for itself, were consistently utilized to deny the legitimacy of usufructuary Metis hunting, fishing, trapping and settlement rights. Domination of these vital areas by the Ontario Lands and Forests Department resulted in Metis people being harassed for subsistence hunting and fishing, and in being classed as squatters on lands they had used for long periods of time. This unilateral designation of indigenous residents as squatters, and the effects of this policy, were specifically documented in the areas of Agawa, Quetico Provincial Park, Burleigh Falls and numerous other locales across the Province. The cumulative effects of Provincial Homestead Regulations, Indian reserve policy, resource development and railroad construction on this problem have also been detailed. Although there exist techniques to negate the stressful effects, such as the exercise of executive (Ministerial) discretion or the issuance of free grants to long-time residents of Crown land,<sup>412</sup> the Provincial administration continues to selectively enforce an inequitable policy program begun over 80 years ago.

The many examples unearthed by our research point to the constancy of some inversely proportional relationships. As imposition of unilateral legislation and arbitrary policies on the Metis increased in Ontario, the direct control which they were permitted to retain over their resources decreased. And as provincial subsidization of, and support for, industrial resource development proliferated, recognition of legitimate Metis rights was repressed and the people excluded from participation in

Conclusions and Observations: (cont'd)

the policy process. These consistent trends began with early definitions of public property and Crown rights, progressed through the 1763 Proclamation, early Indian legislation, and were further reinforced by the B.N.A. Act and the Robinson and North-West Angle Treaties. We traced the constancy of Federal and Provincial approach through long standing border disputes, arbitration proceedings and protracted resource-related litigation. The issues surrounding confirmation of Ontario's reserves and expanding settlement needs were shown to be instrumental in curtailing indigenous rights. Furthermore, development of various regulatory processes, and their selective use, highlighted the discretionary manner in which Ontario was prepared to deal with Metis land-use conflicts.

APPLICATION TO CLAIMS

The elements traced within the context of this paper are directly linked to the formation of comprehensive claims and serve as a foundation on which to build a series of specific claims across the Province. Techniques utilized to arbitrarily exclude Metis from Indian band lists, and create from them a constituency of "squatters" on Crown land, were direct products of Federal policies. Dispossession of Metis people from the land and the consequent disruption of intact communities, alienating indigenous people from their traditional economic bases, were consequences of Provincially implemented policy. Extension of these post-Confederation initiatives into the present clearly indicates that Provincial priorities and outlooks have shifted very little through the years.

The valid interest and right which Metis people continue to maintain in the land, a fact inextricably tied to their indigenous roots, has been determined to exist in cases throughout Ontario. Conditions outlined in the Federal Native Claims policy, as basic to establishing the existence of valid claims, have been more than fulfilled in Ontario by our research efforts. The loss of Native interest, by unilateral and unjust means, has categorically occurred on a Province-wide basis, satisfying,

Application to Claims: (cont'd)

therefore, the parameters which the Department of Indian Affairs outlined as:

Policy recognized that non-Native occupancy of land in these areas had not taken interest into account, had not provided compensation for its gradual erosion, and had generally excluded Native people from benefitting in developments that might have taken place as a result of non-Native settlement.<sup>413</sup>

The perfect match of this definition to the losses experienced by the Metis people in this Province, some of which were detailed in this paper, leave no doubt as to the legitimacy of our comprehensive claims. The Provincial acceptance of these Federal guidelines should occur without delay, particularly since Ontario's policy had been modelled on Federal initiatives for so many years.

The loss of livelihood which, as defined below, is a prerequisite element for the establishment of a specific claim, certainly has relevance to our case as well:

through resource developments and provincial management of resources, such as the issuance of timber permits or by wildlife regulations their traditional means of livelihood are detrimentally affected without any or satisfactory mitigative measures.<sup>414</sup>

It is therefore vital that further research be commissioned to present in detail the range of specific claims for Ontario, and that negotiations between O.M.A. and the Province be undertaken in the very near future. Legislative recognition is long overdue!

ENDNOTES

<sup>1</sup> J. E. Anderson, Public Policy Making. (New York: Praeger, 1975), p. 3.

<sup>2</sup> M. M. Podlog, "The Claus Family, Colonial Politics and Early Management of Indian Affairs in Upper Canada". Internal document prepared for OMNSIA, (March 1979).

<sup>3</sup> See: B. C. Trigger, The Children of the Aataentsic. (Montreal: McGill-Queens U. Press), 1976, 2 Vols. 913 pps - for good account of early white activities and perceptions in Canada, to 1660.

<sup>4</sup> Recollections of Father Grignon, pp. 221.

<sup>5</sup> Chief Minavavana, Alexander Henry, Travels and Adventure in Canada, James Bain (ed.), (Toronto: George N. Morang), 1901, p. 44.

<sup>6</sup> See: Gerard V. LaForest, Natural Resources and Public Property Under the Canadian Constitution. (Toronto: Univ. of Toronto Press), 1969, pp. 3 - 14.

<sup>7</sup> 1 Geo. III, c.1 (Imp.), 1760.

<sup>8</sup> La Forest, op cit., p. 6.

<sup>9</sup> 14 Geo. III, c.83, s.8 (Imp.)

<sup>10</sup> R. N. Komar, "The History of the Legal Status of the Canadian Indian to 1867". Paper submitted to the U. of Toronto, Faculty of Law, March 1971, pp. 75 - 77.

<sup>11</sup> The Historical Development of the Indian Act". Treaties and Historical Research Centre, PRE Group, Indian and Northern Affairs, (Ottawa), August, 1978, pp. 10 - 12.

<sup>12</sup> William IV, c.1. (N.B.) 1837.

<sup>13</sup> 3,4 Vict., c.35 (Imp.) 1840.

<sup>14</sup> 9 Vict., c.114 (Can.) 1846.

<sup>15</sup> See: Mercer V., Attorney-General of Ontario, (1883), 5S.C.R., 538 per Ritchie (C.J.).

<sup>16</sup> Podlog, 1979 op. cit.

<sup>17</sup> R. H. Brown, "Annual Report 1900 on Land Tenure in Canada", Dept. of Crown Lands, Pamphlet #71, App. #32 1900, PAO.  
For example - Townsp. of Colrich, 86,000 A. by Mr. Wallace; Townsp. of Dumfries, 94,000 A. by Mr. Steadman; Townsp. of Waterloo, 94,000 A. by Mr. Beasley; Block of 30,000 A. by Mr. Jarvis, Provincial Secretary.

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18 By the 1790's, all Mississauga lands, except for the tract on the N.W. shore of Lake Ontario, had been surrendered for loyalists flowing into the region.

19 E. A. Cruickshank, The Settlement of the U.E.L. on the Upper St. Lawrence and Bay of Quinte in 1784. A Documentary Record. (Toronto: Ontario Historical Society), 1934, p. vi.

20 Pokquan, Mississauga Speaker, inviting Brant to the Grand River in 1784, before the Grand R. surrender was effected. "Sale of Grand River lands by the Mississauga to the Crown, May 22, 1784". Surveyors Letters, Crown Land Papers, 1788-1791, RG 1, A-I-1, Vol. 2., PAO.

21 See: G. J. Patterson, "Land Settlement in Upper Canada, 1783-1840". Indian Rights Commission Library, Ottawa, 1921, pp. 4 - 7.

22 Geo. III, c.31 (Imp.), 1791.

23 See Podlog, op. cit.

24 R. H. Brown, op. cit., p. 17.

25 Ibid.

26 "A Proclamation to such as are desirous to settle on the lands of the Crown in the Province of Upper Canada". John Graves Simcoe, Lieutenant-Governor and Commander-in-Chief of Upper Canada, Quebec, Feb. 7, 1792.

27 Term was first used in official capacity at the Congress with the Western Nations, Detroit, Sept. 7 - 10, 1764. The papers of Sir William Johnson (Albany: The University of the State of N.Y.), 1921-1965, 4:533.

28 Extract from the Minutes of Council held at the President's on Thursday, the 31st of Jan. 1799. John Elmsley. Crown Lands Dept., RGI, Box 7, A-I-7, PAO.

29 R. G. Riddell, "A Study in the Land Policy of the Colonial Office, 1763-1853". Canadian Historical Review, 1937, V. 18, pp. 385 - 405.

30 Will. IV, c.118, 1838.

31 Vict., c.15, 11 May, 1839.

3,4, Vict., c.44, 1840.

32 R. H. Brown, quoted on p. 19.

33 See the 1842 and 1853 Land Acts.

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<sup>34</sup> Vict., c.8, 1868.

<sup>35</sup> R. H. Brown, op. cit., p. 22.

<sup>36</sup> M. Denison, The People's Power. (Toronto: McClelland & Stewart) 1960, pp. 3 - 4.

<sup>37</sup> 31 Vic., c.8.

<sup>38</sup> R. H. Brown, op. cit., p. 21.

<sup>39</sup> Denison, op. cit., p. 4.

<sup>40</sup> H. M. Morrison, "The Background of the Tree Homestead Law of 1872", C.H.A.R., 1935, p. 63.

<sup>41</sup> A. M. Lower, Great Britain's Woodyard: British American and the Timber Trade, 1763-1867. (Montreal: McGill - Queen's University Press), 1973, pp. 111 - 125.

<sup>42</sup> Denison, op. cit., pp. 10 - 19.

<sup>43</sup> Lower, 1973, op. cit.

<sup>44</sup> A. G. Doughty and D. A. McArthur, Documents Relating to the Constitutional History of Canada, (Ottawa: King's Printer), V.II, 1914, p. 43.

<sup>45</sup> Anglin, Keewatin Power Company v. Town of Kenora, Ont. Law Reports, 1906. In PAC RG 88, Vol. 85, File 1184.

<sup>46</sup> Memorandum. Re: Riparian Rights on the Niagara River. Ontario Hydro Electric Inquiry Commission, 1922-1924. U. of Toronto Library, p. 1.

<sup>47</sup> A. M. Lower, The North American Assault on the Canadian Forest, Toronto, 1938, pp. 38 - 46.

<sup>48</sup> Journal Legislative Assembly of Canada, App. T., Report pt. II, Item 2. 11 Vict., 24 June, 1847.

<sup>49</sup> Indian Protection Act, 13, 14 Vict., c. 74, 1850.

<sup>50</sup> Prud'Homme, L'Element Francais au Nord'Ouest. Voyageurs Canadiens-Francais et Metis 1763-1870. (Montreal: La Cie de Publications de la Revue Canadienne), 1904.

<sup>51</sup> A. J. Ray, Indians in the Fur Trade. (Toronto): U. of T. Press), 1974 pp. 137 - 165.

<sup>52</sup> M. M. Podlog, "The Claus Family, Colonial Politics and Early Management of Indian Affairs in Upper Canada". Internal document Prepared for the O.M.A., March 1979, p. 20 - 23.

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56 Podlog, loc cit., pp. 18 - 19.

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TITLE OF ACTDATE OF ASSENT / PASSAGESIGNIFICANT POINTS, FOCUS OR RELEVANCECOLONIAL LAWS TO 1784

An Act for the preservation of White and other pine Trees Growing in Her Majesty's Colonies... for the masting of Her Majesty's Royal Navy

1711

A 1721 Amendment of this Act extended its application to Nova Scotia in preventing cutting pine without a license from the Crown.

Royal Proclamation

12 April, 1763

Quebec Act,  
14 Geo.III,c.83

1774

Sect.1 - Establishing the western border of Province of Quebec via "His Majesty's Pleasure." 1st legal document pertaining to western Ontario border in later arbitration disputes.

An Ordinance to prevent the selling of strong liquors to the Indians in the Province of Quebec, and also to deter persons from buying their Arms or

Clothing, and for other purposes relative to the trade and intercourse with the said Indians,

Repealed by 3,4 Vict.,c.44.

17 Geo.III,c.7

1777

TITLE OF ACT

DATE OF ASSENT / PASSAGE

SIGNIFICANT POINTS, FOCUS OR RELEVANCE

LAWS OF UPPER CANADA, 1791-1839

The Constitutional Act,  
31 Geo.III,c.31(Imp.)

1791

Province of Quebec divided into Upper and Lower Canada.

Jurisdiction of Canadian Courts in  
Indian Territories,  
1,2 Geo.IV,c.66

1821

Sections 6 & 7 apply to Ontario Indian lands.

An Act to provide for the disposal  
of Public lands in this province  
and for other purposes therein  
mentioned, 7 Wm.IV,c.118.

17 May, 1838

Public lands were those placed under the control of the  
Commissioner of Crown Lands for sale for public purposes,  
and were comprised of Crown lands, Clergy Reserves,  
School lands, but not surrendered Indian lands.

An Act for the protection of the lands  
of the Crown in this Province, from  
trespass and injury, 2 Vict.,c.15

11 May, 1839

Focus on unlawful occupation of Indian lands, removal  
of timber and quarrying on Indian lands.

<u>TITLE OF ACT</u>	<u>LAWs OF THE PROVINCE OF CANADA</u>	<u>DATE OF ASSENT / PASSAGE</u>	<u>SIGNIFICANT POINTS, FOCUS OR RELEVANCE</u>
An Act to Reunite the Provinces of Upper and Lower Canada, and for the Government of Canada, 3,4 Vict.,c.35		23 July, 1840	Foundation of Province of Canada - rules, powers, procedures and mechanics of new structure. Beneficial interest of Crown Lands in Prov. of Canada, including lands reserved for Indians, transferred to Province.
An Ordinance to repeal certain parts of an Ordinance therein-mentioned and to amend certain other parts of the said Ordinance, and to provide for the further protection of the Indians in this Province, 3,4 Vict.,c.44		1840	Enabled Province to order any resident to remove himself from Indian villages of Province.
An Act for the Disposal of Public Lands, 4,5,Vict.,c.100		1841	Distinction defined between public lands and Indian lands.
An Act to prohibit the hunting and killing of Deer and other Game within this Province, at certain seasons of the year, 7Vict.,c.12	9 Dec.,1843		Indians exempted from this Act, for their own consumption only.
An Act for the better preservation of certain species of Fish, in the Rivers and Waters of the Counties therein mentioned, 7 Vict.,c.13	9 Dec.,1843		Applied to Lower Canada; no netting of trout or salmon Aug to Dec., applying to Indians as well.
An Act for granting a Civil List to Her Majesty, 10 Vict.,c.114	16 Aug., 1847		In return for expenses created from creation of Civil List, beneficial interest in hereditary revenues from Royal mines and minerals passed to Canada, while title

TITLE OF ACT

DATE OF ASSENT/PASSAGE

SIGNIFICANT POINTS, FOCUS OR RELEVANCE

An Act to raise an income of one hundred thousand pounds out of the Public Lands of Canada for Common School Education, 12 Vict.,c.200

27 May, 1850

Public land sales to generate a Public Fund, called the Common School Fund, clearly exempting surrendered Indian lands.

Crown Timber Act, 12 Vict.,c.30

1849

An Act for the better protection of the Lands and Property of the Indians in Lower Canada, 13,14 Vict.,c.42

10 Aug., 1850

Consideration of who is Indian, based on decendency, intermarriage and adoption. Assesses property rights, occupation and specifically includes mixed-bloods as Indians (see Sect.V).

An Act for the Protection of the Indians in Upper Canada from imposition, and the property occupied or enjoyed by them, from trespass and injury, 13,14 Vict.,c.74

10 Aug., 1850

Crown's consent necessary for lands purchased from Indians. No taxes or assessments on persons inter-married with Indians and living on unceded Indian land.

An Act to repeal in part and to amend an Act, intituled, An Act for the better protection of the Lands and property of the Indians of Lower Canada, 14,15 Vict.,c.59

30 Aug., 1851

Substituted conditions for repealed sections specified residence on Indian lands allowed for those persons belonging to the tribe of the area, non-Indians whose parent(s) were Indian or belonging to that tribe, or their descendants, or, all women lawfully married into the above categories. Mixed-bloods legitimately recognized. (Sec.II).

An Act to remove doubts as to the

lands and casual revenues by the Crown in the Colonies and Foreign

possessions of Her Majesty,

15 & 16 Vict.,c.39

1852

"Lands Reserved for Indians."  
Did not give the Province of Canada any property in

TITLE OF ACT	DATE OF ASSENT/PASSAGE	SIGNIFICANT POINTS, FOCUS OR RELEVANCE
An Act to amend the law for the sale and settlement of the "Public Lands", 16 Vict.,c.159	1853	Clear distinctions made between provincial "Public Lands" and "Indian Lands".
An Act to encourage the gradual civilization of the Indian tribes in this Province, and to amend the laws respecting Indians, 20 Vict.,c.26	10 June, 1857	Indians and mixed-bloods on unsurrendered lands or reserves have their lands protected from trespass and injury, as per 13,14 Vict.,c.74. Creation of enfranchisement system and concept of Non-Status Indians, towards "the gradual removal of all legal distinctions between them and Her Majesty's other Canadian Subjects," (Sec. 7), and elimination of number of 'Indians' legally entitled to benefits.
An Act respecting the territorial division of Upper Canada, 22,23 Vict.,c.26	1859	Division of Upper Canada into Counties and Townships.
An Act respecting the Administration of Justice in the Unorganized Tracts, C.S.U.C., 22 Vict.,c.128	1859	Sects. 104 & 105 – concern inciting Indians and Halfbreeds against Province is a felony, with prison sentence of 2 to 5 years.
An Act respecting the Sale and Management of the Public Lands, 23 Vict.,c.2	23 April, 1860	Sect. 13 – concerns free land grants. Repealed by 1868 Act to Secure Free Grants and Homesteads to actual Settlers on the Public Lands.

TITLE OF ACT

DATE OF ASSENT/PASSAGE

SIGNIFICANT POINTS, FOCUS OR RELEVANCE

6

An Act to amend the ninth chapter of the Consolidated Statutes of Canada, intituled: "An Act respecting Civilization and Enfranchisement of certain Indians."

23 Vict., c. 38

19 May, 1860

An Act respecting the management of the Indian Lands and Property, 23 Vict., c.151

13 Oct., 1860

An Act to amend the laws in force respecting the Sale of Intoxicating Liquors and the issue of Licenses of abuses resulting from such sale, 27,28 Vict.,c.18

30 June, 1864

Consolidates Indian legislation. Complete control over Indians assigned to Province of Canada by Crown. Indian lands continue to be held "in trust", trust fund to be used to support "administrative" costs expended by Department, and Commissioner of Crown Lands become Chief Superintendent-General, Indian Affairs.

An Act respecting Gold Mines, 27,28 Vict.,c.9

30 June, 1864

An Act to prevent Trespass to Public and Indian Lands, 29,30 Vict.,c.81

1866

An Act to confirm the Title to Lands held in trust for certain of the Indian residents in this Province, 29,30 Vict.,c.20

15 Aug., 1866

An Act to amend the Act intituled:

"An Act respecting Administration of Justice in the Unorganized Tracts", 29,30 Vict.,c.48

Pertains to authority of Registrar of Deeds or conveyances in any part of the Judicial District laid out and surveyed by Crown.

TITLE OF ACT

DATE OF ASSENT / PASSAGE

SIGNIFICANT POINTS, FOCUS OR RELEVANCE

POST-CONFEDERATION ONTARIO and DOMINION LAWS

The British North America Act,  
30,31 Vict.,c.3

1 July, 1867

Sect. 91(24) - Indians and Indian lands to be exclusive  
preserve of Dominion for all legislative authority.

An Act to secure Free Grants and  
Homesteads to actual Settlers  
on the Public Lands,  
31 Vict., c.8 (Ont.)

28 Feb., 1868

Sect. 4 - Appropriation of public lands made possible  
if considered suitable for settlement or cultivation,  
and their subsequent free granting to actual settlers.  
Excludes mineral lands and pine timber lands.  
Rainy R. free grants differ in size from rest of Ontario.

Gold and Silver Mining Act,  
31 Vict.,c.10 (Ont.)

1868

Institution of royalty scheme on mined gold and  
silver ores in Ontario.

An Act providing for the organization  
of the Department of the Secretary of  
State of Canada, and for the management  
of Indian and Ordinance Lands,  
31 Vict.,c.42 (Can.)

22 May, 1868

Clause 15 - "All persons residing among Those Indians  
of whom their Parents, from either side, were  
Descended from Indians, or Reputed Indians, belonging  
to the Nation, Tribe, or particular People of Indians,  
interested in real Estate or their descendants,"  
were considered Indians.

Rupert's Land Act,  
31,32 Vict.,c.105 (Can.)

1868

General Mining Act,  
32 Vict.,c.34 (Ont.)

1869

Revoking 31 Vict.,c.10 which resulted in elimination  
of Crown reservations of mines and minerals, and  
eliminated the royalty scheme as well as taxes and  
duties on mining in Ontario.

<u>TITLE OF ACT</u>	<u>DATE OF ASSENT/PASSAGE</u>	<u>SIGNIFICANT POINTS, FOCUS OR RELEVANCE</u>
An Act for the Temporary Government of Rupert's Land and the North-Western Territory when United with Canada, 32,33 Vict.,c.3 (Can.)	22 June, 1869	
An Act for the gradual enfranchisement of Indians, the better management of Indian affairs, and to extend the provisions of the Act 31 Vict.,c.42, 32,33 Vict.,c.6 (Can.)	22 June, 1869	
An Act to amend and continue the Act 32 and 33 Victoria, chapter 3; and to establish and provide for the Government of the Province of Manitoba, 33 Vict.,c.3 (Can.)	12 May, 1870	Land transfers to family derives from blood lines and residency. Elections and duties of Chiefs delineated - imposition of elective system to subvert the hereditary system.
Dominion Lands Act, 35 Vict.,c.23 (Can.)	14 April, 1872	Sect. 31 - extinguishment of Indian title and appropriation of 1,400,000 A. for half-breed residents, dividing land amongst only the children of heads of half-breed families residing in the province at transfer.
An Act to provide for the establishment of "The Department of the Interior", 36 Vict.,c.4 (Can.)	3 May, 1873	Sects. 42 & 105- Governor -in-Council can, subject to those pre-existing Indian and Halfbreed rights, withdraw from operation of the Act lands reserved for Indians, or, lands required to satisfy Halfbreed claims.
The Half Breed Lands Act, R.S.M. C.91, (Manit.)	1873	Assuming control of Indian Affairs administration from Dept. of Secretary of State (1867-1873). Administration and management of land grants to Half-breeds and their subsequent sale or transfer.

<u>TITLE OF ACT</u>	<u>DATE OF ASSENT/PASSAGE</u>	<u>SIGNIFICANT POINTS, FOCUS OR RELEVANCE</u>
The Half Breed Land Grant Protection Act, 37 Vict.,c.44 (Manit.)	1873	Concerns curtailment of scrip.
An Act to amend certain laws respecting Indians, and to extend certain laws relative to matters connected with Indians to the Province of British Columbia and Manitoba, 37 Vict.,c.21 (Can.)	1874	An Act to amend certain laws respecting Indians, and to extend certain laws relative to matters connected with Indians to the Province of British Columbia and Manitoba, 37 Vict.,c.21 (Can.)
An Act respecting the Northerly and Westerly Boundaries of the Province of Ontario, 38 Vict.,c.6 (Can.)	21 Dec., 1874	An Act respecting the Northerly and Westerly Boundaries of the Province of Ontario, 38 Vict.,c.6 (Can.)
An Act to amend and consolidate the Laws respecting the North-West Territories, 38 Vict.,c.49 (Can.)	8 April, 1875	An Act to amend and consolidate the Laws respecting Indians, 39 Vict.,c.18 (Can.)
		An Act to amend and consolidate the laws respecting Indians, 39 Vict.,c.18 (Can.)
Dominion Lands - Consolidated Act &c, 42 Vict.,c.17 (Can.)	15 May, 1879	First Indian Act stipulating that only halfbreeds who signed treaty would be considered as Indians - attempt at statutory exclusion. "Irregular Bands" created as distinct class of Indians who had not signed a treaty and not on reserve supported by federally managed funds. "Special Reserves" thus set apart for "Irregular Bands".
		Halfbreed claims, lands and entitlement in Manitoba and NWT. Metis considered as "constitutional Indians" by extinguishment of their title.

<u>TITLE OF ACT</u>	<u>DATE OF ASSENT/PASSAGE</u>	<u>SIGNIFICANT POINTS, FOCUS OR RELEVANCE</u>
An Act to amend "The Indian Act, 1876", 42 Vict., c.34 (Can.)	15 May, 1879	An Act to amend and consolidate the laws respecting the Indians 43 Vict., c.28 (Can.)
An Act to further amend the Indian Act, 1880, 45 Vict., c.30 (Can.)	1880	An Act to further amend "The Indian Act, 1880", 47 Vict., c.27 (Can.)
Dominion Lands Act, 46 Vict., c.17 (Can.)	1882	Dominion Lands Act, 46 Vict., c.17 (Can.)
An Act to further amend "The Indian Act, 1880", 47 Vict., c.27 (Can.)	1883	An Act to further amend "The Indian Act, 1880", 47 Vict., c.27 (Can.)
An Act for confirming certain priviledges on the more advanced Bands of the Indians of Canada, with the view of training them for the exercise of municipal powers, 47 Vict., c.28 (Can.)	19 April, 1884	Federal attempt to further reduce halfbreed numbers on pay lists. Permitted withdrawal from treaty without returning annuity payments received to date.
An Act to regulate the Fisheries of this Province, 48 Vict., c.g. (Ont.)	1885	Contains many provisions objectionable to Dominion because they supposedly exceeded Ontario's mandate.
An Act respecting Free Grants and Homesteads to Actual Settlers on Public Lands in the District of Rainy River,		

TITLE OF ACTDATE OF ASSENT/PASSAGESIGNIFICANT POINTS, FOCUS OR PASSAGE

An Act Respecting Indians,  
R.S.C., c. 43 (Can.)

1886

Regulations for the disposal of  
Indian Lands containing Minerals  
other than coal, R.S.C.,  
41 Sec. of C.43, (Can.)

1 Oct., 1887

Specifies that Indian resources, whose title is held  
in the Crown, includes all trees, woods, timber, soil,  
stone, minerals, metals and other valuables thereon  
or therein.

An Act respecting the Expropriation  
of Lands, R.S.C., 52 Vict.,c.13  
(Can.)

1888

Amendment to the Act for the  
Protection of Game and Fur  
bearing Animals,  
(Ont.)

1888

The Canada (Ontario Boundary)  
Act, 52,53 Vict.,c.28 (Can.)

12 Aug., 1889

An Act for the settlement of certain  
questions between the Governments  
of Canada and Ontario respecting  
Indian Lands, 54,55 Vict.,c.5,  
(Can.)  
and  
54 Vict.,c.2 (Ont.)

10 July, 1891

Product of Ontario-Dominion 1874 Agreement.  
Restrictions on hunting, fishing and trapping rights  
where conflicts with mining, lumbering or settlement  
policy arise. Ontario's concurrence for future  
Indians reserves necessary on unsurrendered Crown lands.  
Joint Commission to be established if disagreement arises  
about lands selected. Headland Principle reaffirms  
original principles outlined in 1874 Agreement.

<u>TITLE OF ACT</u>	<u>DATE OF ASSENT/PASSAGE</u>	<u>SIGNIFICANT POINTS, FOCUS OR RELEVANCE</u>
An Act to amend the Act for the protection of Game and Fur-bearing Animals, 55 Vict., c.58 (Ont.)	14 April, 1892	Sect.4, s.s.(1)(c) - issuers of resident trapping licenses and permits appointed with powers to regulate quotas on fur-bearing animals. Sect.12 - Game laws inapplicable to Indians and settlers in unorganized territories.
An Act to amend and consolidate the Laws for the Protection of Game and Fur-bearing Animals, 56 Vict., c.49 (Ont.)	1893	
An Act respecting Water Powers, 61 Vict., c.8 (Ont.)	17 Jan., 1898	Commissioner of Crown Lands can reserve for sale water power and land, terms and conditions under which sales, leases or development takes place.
An Act respecting manufacture of Pine cut on the Crown Domain, 61 Vict., c.9 (Ont.)	17 Jan., 1898	Delineates specific timber regulations and relationship to Provincial lands.
An Act to further amend the Dominion Lands Act, 62,63 Vict., c.16 (Can.)	11 Aug., 1899	Sect.4 - "Clause 90 of the said Act is hereby amended by striking out paragraph (f) thereof, and by substituting the following paragraphs therefor: - '(f) grant lands in satisfaction of claims of half-breeds arising out of the extinguishment of the Indian title; (f 2) upon extinguishment of Indian title in any territory or tract of land...'"
An Act respecting the Fisheries of Ontario, 63 Vict., c.50(Ont.)	30 April, 1900	

TITLE OF ACTDATE OF ASSENT/PASSAGESIGNIFICANT POINTS; FOCUS OR RELEVANCE

An Act to amend and consolidate the

Ontario Game Protection Act,  
63 Vict., c.49 (Ont.)

30 April, 1900

See Sect. 32(1).

An Act respecting the Town of Rat Portage, 2 Edw.VII, c.62 (Ont.)

17 Mar., 1902

Relates to regional development of hydro power.

An Act respecting Fisheries and Fishing, R.S.C. c.45 (Can.)

1906

Establishes conditions, methods and regulatory systems in Provinces and along coastal areas.

An Act respecting the Protection of Navigable Waters, R.S.C. c.115

1906

Ontario Game and Fisheries Act, 7 Edw.VII, c.49 (Ont.)

20 April, 1907

Relationship of Act to 2 court challenges re: Indians' applicability to law - Rex v. George T.S.Train, (24 Feb., 1910) and Rex v. R.C.Wilson, (21 June, 1910) both of which were appealed to Ont. Court of Appeals.

An Act respecting Damage to Lands by Flooding in the New Districts, 9 Edw.VII, c.53 (Ont.)

13 April, 1909

Relates to compensation conditions and awards in flooded lands, especially significant to hydro-reserve interface.

The Manitoba Boundary Extension Act, 2 Geo.V, c.32

1 April, 1912

The Quebec Boundary Extension Act,

1912

1 Geo.V,c. 45 (Can.)

TITLE OF ACT

DATE OF ASSENT/PASSAGE

SIGNIFICANT POINTS, FOCUS OR RELEVANCE

An Act respecting the extension of  
the Province of Quebec by the  
annexation of Ungava,  
2 Geo.V, c.7 (Can.)

1912

Sect. III - Quebec to respect Native land rights in annexed territory and provide compensation for it, in return for loss of aboriginal title.

The Ontario Boundary Extension  
Act, 2 Geo.V, c.40 (Can.)

1 April, 1912

Ontario to recognize Indian rights to same extent as did the Dominion; obtain surrenders of Indian rights in same manner; satisfy and bear all charges and expenditures in connection with such surrenders; trusteeship of Indians and their reserved lands remains in Dominion hands.

Act is pursuant to a 20 Feb., 1912 Dominion Order-in-Council which extended western border of Ontario to include 5 mile-wide strip of Manitoba, extending R.R. and creating terminal port at Nelson for H.B.Co.

An Act to express the Consent of the  
Legislative Assembly of the Province  
of Ontario to an Extension of  
the Limits of the Province,  
2 Geo.V, c.3 (Ont.)

16 April, 1912

Ontario's formal ratification of the 1889 and 1912 Boundary Extension Act.

The Bed of Navigable Waters  
Act, R.S.O. (Ont)

1914

Every mineral grant, even those on ceded Indian lands, were subject to this Act.

TITLE OF ACTDATE OF ASSENT/PASSAGESIGNIFICANT POINTS, FOCUS OR RELEVANCE

The Rivers and Streams Act,  
3,4 Geo.V, c.26, R.S.O.  
(Ont.)

1914

An Act to confirm the title of the  
Government of Canada to certain  
lands and Indian lands,  
5 Geo.V, c.12 (Can.)

8 April, 1915

Ontario to confirm all Reserves in Province except  
Quetico and excepting certain rights to water power.  
On-reserve water power potentials beyond 500 HP, and  
attendant lands, accrued to Province, reversing  
54.55 Vict., c.5, 1891.  
Also modified was the headland principle which now  
came to exclude headland waters from reserves.  
Deals with Ft. Francis reserve curtailment and fishing  
rights and confirmation of Reserves 16A, 16D, & 18D.

An Act for the better regulating of  
the use of Certain Public Waters,  
(The Rivers and Streams Act),  
5 Geo.V, c.15 (Ont.)

8 April, 1915

Regards control of the public interest  
as relates to boundaries, hydro development, dams,  
transportation and logging in Provincial waters.

An Act respecting the Lake of  
the Woods and other waters,  
11,12 Geo.V, c.38 (Can.)

25 May, 1921

Lake of the Woods Control  
Bill, 12,13 Geo.V, c.21 (Ont.)

1922

An Act to amend the Dominion Lands  
Act, 13,14 Geo.V,c.44

30 June, 1923

Sect. 8 - "Paragraph (b) of section seventy-six... is  
repealed and the following is substituted therefore: -  
(b) make grants not exceeding in any case the sum of two  
hundred and forty dollars in cash in satisfaction of  
claims of, half-hundreds and one and one-half  
hundreds."

TITLE OF ACTDATE OF ASSENT/PASSAGESIGNIFICANT POINTS, FOCUS OR RELEVANCE

An Act for the settlement of certain questions between the Governments of Canada and Ontario respecting Indian Reserve Lands,

14,15 Geo.V, c.48 (Can.)

14 Geo.V, c.15 (Ont.)

19 July, 1924

An Act respecting Lac Seul Storage, 18 Geo.V,c.12 (Ont.)

3 April, 1928

The Department of Mines and Resources Act, 1 Edw.VIII, c.33 (Can.)

23 June, 1936

The Game and Fisheries Act, 10 Geo.VI, c.33 (Ont.)

5 April, 1946

The Ontario - Manitoba Boundary Act, 2,3 Eliz.II, c.9 (Can.)

16 Feb., 1954

The Migratory Birds Convention Act, R.S.C. 1970, c.M-12 (Can.)

1970

Restriction of Native hunting imposed, treating Metis in same fashion as normal white hunters.

The Canada Waters Act, R.S.C., 18,19 Eliz.II, c.52 (Can.)

1970

The Land Titles Act, 19 Eliz.II, c.234 (Ont.)

1970

Sect. 3(1)(a) and Sect. 35 - Crown grants, registration of Federally patented lands and leasesholds.

The Public Lands Act, 19 Eliz.II, c.380 (Ont.)

1970

Formal ratification of 1902 Provincial-Dominion agreement respecting ownership and control of ceded Indian lands and minerals, as product of border and accounts disputes.

## SECTION 5

NORTHERN PROBE MEETINGS

NORTHERN NATIVE PROBE

O.M.A. Zone 2 Meeting

November 13-14, 1982

SUMMARY

On Saturday November 13 and Sunday November 14, 1982, representatives from a number of Ontario Metis Association locals gathered in Thunder Bay. Some thirty persons were in constant attendance discussing matters relating to native resource management and allocation.

The principal focus of these concerns falls within the categories of the constitution, current local economic development, and future resource utilization.

The constitution currently defines three categories of native people, the Metis, Indian, and Inuit. Our organization represents two of these interest groups the Metis and a portion of Ontario's Indians. The Indian members are those previously defined as non-status and enfranchised Indians.

At the zone meeting both groups sought definition to the existing rights clause of the constitution as it relates to our natural resources. Lengthy dialogues developed explaining our current political tactics to gain definition of those rights. The assembled delegates strongly expressed the feeling that the rights and claims of our people would not be recognized.

Numerous examples of government procedures which over-ride these rights were discussed. It was felt that pressure was to be exerted at all levels to attempt to persuade the government to honor basic human rights recognized in Canada as well as the United Nations charter to which it is a signatory. People generally felt that Canada as a nation was not upholding its basic duty to allow its citizens the right to self determination.

Many of the Indian members of our organizations felt they might be excluded entirely. It is quite possible that the 'Constitutional Indian' may be synonymous with the British North America Acts definition. If this is the case those unregistered Indians will not be accorded their full rights.

Regional and local development were two topics which focused largely on the activities of the Ministry of Natural Resource officials of the ministry were invited, but did not attend the zone meeting. No explanations were given as to why. The ministry's flagrant disregard for local residents was expressed citing a number of examples.

Onnoman Lake near Nipigon, Ontario has long been a favored site for fishing, trapping, and general recreation. The Ministry of Natural Resources trenched an existing road cutting of access to the lake. Such actions by the Ministry of Natural Resources are typical in the north. The ministry has its set of policies and practices which often do not reflect the needs of local residents.

A number of our representatives were concerned with the relationship between the Royal Commission of Northern Environment and the Ministry of Natural Resources. Some felt that the ministry was privately and publicly avoiding recognition of the commission.

Current practices relating to moose hunting and trapping licences were also discussed. Once again it was felt that the current laws did not reflect the cultural needs of native people. It was noted that native people are flexible in applying their cultural values, particularly if wild-life were threatened. However, it was felt that the priorities inherent in current legislation over-rode this flexibility to, too great a degree. In terms of managing wild-life it was felt that sharing with all Canadian or provincial residents was desirable when there was a surplus. If for some reason there is a shortage of game, then rather than limit licences to all hunters, that non-regional residents should be excluded. This approach reflects the reality of the perception that current wild-life stocks are threatened totally as a result of influences outside of the region.

Numerous examples of trapping permits being issued to hobby trappers were also cited. It was felt that the priorities for inclusion on the list of persons seeking trapping permits should reflect both cultural and social needs. By way of example this list might be prioritized in the following fashion, Native people in general, persons of economic need, transmissible title. It was also felt that allowances should be made for compensation to trappers whose lines had suffered as a result of competitive economic development. The building of dams, forest harvesting, new mines, and road building were given amongst examples of activities which destroy or disrupt the viability of a line.

In general it was felt that the majority of the issues concerning resources were not adequately being dealt with by government ministries. The constitution being the prior law of the land has yet to be fully defined to terms of aboriginal rights. Natives are feeling that ultimately they should have either total control of resource development or control in those areas which would benefit their cultural development. In this area economic aspects are of a primary concern, that is resource development should form a base for native development.

NORTHERN NATIVE PROBE

O.M.A. Zone 3 Meeting

December 3-4, 1982

SUMMARY

Approximately twenty people representing Indian and Metis interest groups of the Ontario Metis Association met in Timmins. December 4th and 5th were spent discussing issues relating to resource development.

Aspects of the impact of the constitution were a central focus of discussion. The broad issues were discussed as well as a localized focus.

In terms of people, it was recognized that there is now only one definition for Indian. Previous sub-categories i.e. Non-Status, enfranchised etc. are becoming redundant. A great deal of time was questions of aboriginal title and an aboriginal land base.

For the most part it was felt that the Indian members of the area would be best advised to align themselves with Nishnawbe-Aski. Wally McKay, the Great Chief and his associates made a formal presentation on this topic.

In effect this alignment moves the Indian Members of our association closer to a political solution to regional problems. The regional residents define the area as their own. In effect a sovereign nation is desired, which in turn would naturally control resource development.

Issues of a more localized nature were also discussed. It was pointed out that land use planning did not significantly involve local people. For the most part it was felt that ministries of the Ontario government, particularly the Ministry of Natural Resources, had no true commitment to public participation. The group expressed a deep concern that Euro-Canadians did not understand concensus democracy. Discussion centering around how public participation might work were quite lengthy.

The current practices employed by such ministries as the Ministry of Natural Resources were considered little more than token efforts geared mainly to information desemination. Educating Euro-Canadians so that they would understand concensus democracy was considered as a primary step towards improving the situation. The feeling that a strong degree of interaction between developmental agencies and industries with residents was desirable and possible, dominated discussions. There was however, an over-riding feeling that Euro-Canadians did not truly want to enter into the process.

As a starting point the delegates felt they should be kept abreast of development projects and have some input in the planning process. A number of examples of major projects in the area which did not develop in a fashion conducive with a native perspective were cited. The Onakawana mine development and the strip cutting on the Algoma Central right of way were amongst those discussed. Both were considered environmentally detrimental as well as not benefiting the local residents either through employment or spin off money. It was felt that veto power held by native people would avoid development occurring in a detrimental fashion.

The Native people wish to participate in all levels of development concensus of opinion supported by the desire to utilize a body other than the Ministry of Natural Resources to achieve this goal, as well as alleviating future control problems. The creation of a unit which served as a funneling agency for information gathering, similar to the Royal Commission on the Northern Environment was considered desirable. A number of proposals were discussed as to the function of such a body, it was emphasized that it should also serve as a lobbying body for northern residents and have a wider range of powers than the current Royal Commission on the Northern Environment.

NORTHERN NATIVE PROBE

O.M.A. Meeting

Zones 1 - 2 - 3

December 18-19

SUMMARY

On Saturday December 18 and Sunday December 19, 1982, members of Ontario Metis Association from Zone 2 gathered at the Airlane Motel in Thunder Bay. Some ten persons were in attendance. The purpose of the meeting was to discuss various problems facing the northern communities of native people and solicit possible solutions. Among the issues discussed, native resource management was the focal point.

The principle issues discussed have been itemized thus:

#### Trapping and Licences

The issue brought forth emotionally motivated discussion. Criticisms were voiced at the handling of the matter by MNR, and corrective actions were sought. Trapping is a deep-rooted part of native culture and is therefore non-negotiable. Native people have a basic right to trapping and therefore, trapping grounds must be protected. MNR's policy of splitting the trapping grounds and giving trapping licences to non-Indians is not only unacceptable, but destructive to the native people's way of life. Trapping is basic to our culture and you cannot make deals with the culture. It should not even be discussed; trapping licences are not negotiable. The issue must be firmly dealt with and the trapping rights of native people be maintained. One member cited an example that his licence for trapping was given to someone else and not his son. It was expressed that trapping licences be passed on from fathers to their sons and so on.

One member mentioned the fact that MNR charges for work on trap lines which is unnecessary. Manpower has a program where they pay workers to clean the ground for trapping. Such a program could encourage the indolement of young people. This should be explored.

The issue of wild rice cultivation was brought up. There are some major corporations who are trying to control the wild rice cultivation now. There appears to be a conflict between the harvesting of wild rice and trapping. Natives are forced to buy lakes. Rice grown on Reserves belongs to Indians and no one can touch it. It was pointed out

that in the Rice Lake area, all the surrounding lakes had been planted by the Metis. One said that wild rice grown on your trapline should belong to the trapper.

#### O.M.A. Membership

Some members expressed dissatisfaction over the association's name change. Some feel this is resulting in a loss of membership. We are all native people regardless of the classifications attached to groups. It should be open to all. Those who have not registered have become forgotten people or without a country, one said. A few years ago we formed a group to represent Indians who have lost their status. They were all included because of this condition. We are losing members. We should get back to the basics; to the concerns of the people. If we want to clearly represent the interests and concerns of Indian people, we should maintain the membership open to all. Let the world know who we are; we are all Native people. We should utilize the expertise of all those previous years and form a united body and involve everybody who is Native. Some people did not want OMA to represent them because it does not recognize them. There is no definition in the Constitution of who an Indian is or who Metis is. Those who consider themselves non-status would like to identify themselves.

Treaty Indians are not qualified to become full members of the Metis Association. Non-status Indians do not have any say in the organization because they are not Metis. Why should it be so? We should join forces to unite all Natives, whether or not they are Metis, Status or Non-Status Indians. Things are happening and people have started to join forces at the provincial political level. In the years to come, there might be a full force of all people together as a family with one voice. It was suggested that recommendations be made to the Head Office or to the Board that they look into the possibility of amending the By-law which restricts treaty people from becoming a full member.

The structure of the Association could be reorganized right from the local level to the provincial level and maybe call it "Aboriginal Rights Group" with a centralized office and then work around it to bring all Indian people together. The service programs should be decentralized in order to bring them down to the grass roots people, to the local people. There should be someone in charge of service programs at the local levels who will be responsible to report to a zone president. The zone president to be responsible to the 3 Board of Directors who would be the President, Vice-President and Secretary-Treasurer of the zone.

#### Aboriginal Alliance

Strong feelings were expressed throughout the discussion of the need to work together with all native groups for common cause. We should get in alliance with Treaty #9 and #3 and work towards the common goals. This will give us a united force to speak out about our problems.

#### Relationship with the Royal Commission

Members expressed their feelings on the Royal Commission's performance. The Royal Commission is being paid to gather information from native people but somehow they (the Government Ministries) are already making laws and making decisions before they receive full information on an issue. Nothing is coming out of it and so there is no use of being in there.

The barriers should not be there between native organizations. Many people do not know what's going on with these treaty organizations. Some do not get the opportunity to know what's going on. These barriers should be eliminated and work out some plan for a joint action. We are all fighting for the same rights and claims, especially our title or identity. We are trying to take the same front and yet working in two different directions.

Whether the findings of the Commission will reflect the concerns of Indian and Metis people is in question. Treaty #9 has pulled out of the Commission. Politically we have the opportunity to align OMA with Treaty #9 and make a joint presentation.

MOTION: Moved by Mr. Peter Patience and seconded by Dolly McGuire that:  
"OMA pull out of the Commission post-haste."

Discussion on the Motion:

The members discussed the consequences of the above motion. The members felt that people could get along with Mr. Hart, the previous Commissioner but things have changed now. Also, even after pulling out of the Commission, OMA could still work with Treaty #9 which would give it more clout. In the event, down the road, OMA did decide to re-join the Commission, the doors to the Commission would be open and they would welcome the return.

One member suggested the formation of a native commission or at least a native Commissioner. It was felt the northern part of the province should be left to take care of its own affairs.

A vote was taken by asking those in favour of the Motion. All raised their hands and therefore the Motion was passed unanimously.

#### Education to the Native People at Home Turf

It has been clearly noticed that whenever MNR seeks workers for a project in an area, they bring workers from outside because they cannot find qualified people in the area. If native people could be given job trainings on their home turfs, it would do a lot of good for the local communities. It has been mentioned that often when someone goes to the big cities for an education, the person does not return after earning his/her degree. The community is thus deprived of the knowledge the students gain. Remedial steps must be taken to rectify this situation. There should be more programs for training native people. Members felt that education to native people should be guaranteed.

It is felt that it still is difficult for a native person to get a job because of discrimination. Also, there is a condition that you have to be a union member to get an MNR job, which prevents many native people from getting jobs on MNR's projects. Further, the MNR should moderate or simplify their paper requirements when hiring a native person, as well as formally recognizing skills learned by people raised in the bush.

#### Seminars for Presidents

There are a lot of times when the Presidents don't know what's going on, which makes it difficult for us to find possible solutions to the problems pertaining to the native people. We don't know where the bureaucracy starts and where it ends. What programs are available? To fill this gap, seminars for Presidents should be conducted to educate them properly so that they can play their leadership role effectively.

#### Resource Control (Summary)

The MNR should give preference to native people for local jobs. The MNR could train the Indian people for specific jobs. MNR has got lots of power but they are heartless. Trapping rights for native people should be guaranteed. One suggested forming a trapping company such as "Trappers and Sons Limited" which could be passed on to the next generation. Abuse of privileges should be regulated to prevent their recurrence. All natives should have equal rights. Some of their (MNR) policies should remain open to change as the realities change. The law should be made according to our needs. Our kids should be educated on their home turfs to prevent them going out to big cities and then not returning to their communities to help others in the community with their knowledge. If we get these things going on our home grounds, then we can work out something to work with Treaty #9 or Treaty #3. It will make people feel involved.

Political Representation

In view of the discussions recorded above, it is evident that some of the laws and policies affecting the northern communities do not conform to the needs and wants of native people. Therefore, one question was asked: how can the laws be made by people? An example of New Zealand was quoted. That country guarantees seats in Parliament for aboriginal people. Could the same be applied in Canada so that collective interests of native people be presented to this nation's Parliament? At present, even the Royal Commission, charged with the responsibilities of finding possible solutions to the problems facing the native people in the north, does not have any Indian people involved. A Parliamentary seat for native representation will at least bring the problems into national focus. Native people want a lot of things to happen, but how to make them happen is not clear in the minds of the native people. We should get all organizations together to discuss the common problems. Division between Metis and other organizations is government created. We should form groups at local levels and thus getting more members involved. MNR should conduct seminars and involve Chiefs and Presidents.

It was recommended that a seminar for Presidents should also include status organizations. A letter be written to the Executive of the Metis Association for their help. The idea should not be pushed, but the idea of working together be made known.

## SECTION 6

### RECOMMENDATIONS

NORTHERN PROBE:  
RESOURCE MANAGEMENT AND ALLOCATION

The Ontario Metis Association, through its Commission of Inquiry on Resource Management, created a forum through which its constituents could express their concerns, ideas, position and recommendations to their leaders and representatives. Through a series of meetings and research, OMA received many submissions from groups and individuals and the sentiments expressed were reflected and used to help formulate OMA's position to the Commission. An analysis of the material presented and collected several themes emerge in relation to Aboriginal title and Resource Management and Allocation of resources. The main themes are summarized here:

1. One of the major themes expressed was the necessity of the guaranteed right to hunt and fish, trap and rice in and around their communities as they have done and their grandfathers before them. The right to follow the traditional means of livelihood without externally imposed quotas and regulations.
2. That a mechanism be put in place whereby Aboriginal people have active input and participation, including voting and veto rights, into the development that occurs in their communities and surrounding areas. So far the large companies and government policies have left Aboriginal people out of the "development" picture, to the detriment of both the Aboriginal and the non-Aboriginal people of the communities and surrounding region. We, as indigenous people want a say in the resource development and exploitation of the renewable and non-renewable resources so that the development reflects and is of benefit to the people of the community who live and work there long after the development has occurred, come its full cycle and often completion, and the company has left. Aboriginal people no longer want to suffer from externally imposed economic development, that in the past has left us without jobs, a polluted environment, social disruption, and a loss of means, in terms of understanding and skills, to go back to our traditional livelihoods and resource base which very often has been destroyed by over-exploitation.

3. Aboriginal people want to develop long-term economic security. This includes a land resource base, and a continued source of revenues derived from land claims settlements and royalties from companies exploiting and extracting resources from our area. This income could be channeled into Aboriginal developed and controlled economic projects, businesses, into the community for housing, health care, community development and social programs, and relevant educational programs.

It was strongly put forward that any development must benefit the people of the region and occur with the guidance, participation and understanding of the peoples involved and living the experience. One comprehensive example of detrimental exploitation and Aboriginal solution put forward by one group from Northwestern Ontario reads as follows:

For example, the increasing mechanization of woods operations reduces the labour force in the woods and raises the educational requirements of those hired, and the reduction of third party contractors because of timber limit references going to large corporations, also reduces flexibility in mixing wage employment in the bush with traditional activities such as trapping. Our people are becoming increasingly redundant in the bush, one of the principle areas of employment formerly available. This does not have to occur. Using the example of woods operations, flexibility is required in training, and in employment to allow for a mix of wage and traditional economic activities. Training must be concurrent with employment. Large corporations incorporate training programs through Canada Manpower, they cannot because of their size incorporate the necessary flexibility which retraining programs for unemployed, skilled woods operators are merely make-work programs. The solution here is that people of Aboriginal ancestry must be allowed to develop their own woods operations in contract with the large companies. In many cases this is the only way many of our people could and would be integrated into the wage economy.

As presented in this Report.

(1) Provincial Laws and Policies;

(a) The creation of the Identity of the Metis as "Squatters" has been a direct result of Federal policies. Disposition of the Metis from the land is a consequence of Provincially implemented policies.

As a result, we recommend that all future provincial policies promote the recognition of traditional and current communities and the re-alignment of all aboriginal peoples with their economic bases.

(b) A system of resource development taxation be created.

(i) Funds would be created from all resource development in Ontario.

(ii) These funds to be utilized exclusively for the development of Metis and Indian people.

(c) In the development of issues concerning Aboriginal people the policies and practices of government bodies should be expanded to recognize the validity of oral tradition as of equal value to the "written word".

(d) In terms of those land areas demographically dominated by the Metis and Indian people; all policies and practices should be developed under the direct guidance and control of Aboriginal people.

(2) Wild rice

(a) The moratorium on wild rice continue for a minimum of five years.

(b) A decision and policy development board be created and financed by the responsible ministry to control the development of wild rice. This board to include the Indian, Metis and representatives of both Federal and Provincial governments.

(c) As wild rice is both a domestic grain and a natural or wild resource, that control of the rice be transferred to the Ministry of Agriculture.

(d) Within the context of "control" by the Ministry of Agriculture the following guidelines be adhered to:

- (i) All rice beds which have been traditionally harvested by the Metis and Indians of Ontario be reserved for their exclusive usage.
- (ii) All future incentives for the development of the rice harvest be structured and granted with Aboriginal people as the priori group.
- (iii) The Metis and Indians have a "veto power" over all wild wild rice development except in those areas where rice paddies are created on private lands.
- (iv) A direct tax be applied to rice to be utilized by both Metis and Indian people.

#### Development of Metis

Whereas the identity of the Metis and their usage of resources is an issue requiring clarity, then;

- (i) Funding be made available to Metis people to research and clarify issues of primary concern to ourselves, specifically in the areas of Aboriginal title as it affects resource development.
- (ii) Funding for cultural and social development be provided as an equalizing process, i.e., specific education grants.
- (iii) A moratorium be placed on new resource development until the concerns of the Metis are concluded.



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# NORTH CARIBOU LAKE BAND

WEAGAMOW LAKE, ONTARIO  
VIA: SIOUX LOOKOUT, POV 2Y0

## SUBMISSION REPORT

TO

ROYAL COMMISSION ON THE  
NORTHERN ENVIRONMENT

December 31, 1982

(1)

## INTRODUCTION

The purpose of this report is to present it to the Royal Commission on the Northern Environment. The Band Council and people of Weagamow Lake Indian Reserve want to put their words on paper what they want the government do for them in the future. The band council and people of this reserve see vast changes in their reserve socially and culturely for the last ten years and if all weather road reaches the community of Weagamow Lake, there will be more changes taking place.

This submission report has been prepared with the financial assistance of the Royal Commission on the Northern Environment. However, no opinions, positions, or recommendations expressed herein should be attributed to the commission. They are solely the responsibility of the North Caribou Lake Band and its Band Council.

Information for this report has been gathered from Band Council, band office staff, Round Lake Fisheries and important personel within the community leadership. This report is not trying to compete with other reports within Treaty No. 9 area and Windigo Project Development Area , however, some ideas may differ due to the circumstances of different communities. Band Council and people of this band support the goals of Grand Council of Treaty No. 9 and Windigo Project Development Area.

(2)

LOCATION:

The community of Weagamow Lake (Round) lies on the north shore of Weagamow Lake approximately 172 miles northeast of Red Lake, Ontario and about 320 miles north northwest of Thunder Bay, Ontario. The Weagamow Lake Indian Reserve No. 87 has an area of 22,664.8 acres or about 32 square miles of land. The population is over 500 people as natives, however, other people living in the reserve are nurses, school teachers, and The Bay manager and family. The reserve lies at approximately 53° 00' N and 91° 20' W. The Magnetic declination in the reserve area is approximately 1 degree 30' E.

ACCESS:

The community of Weagamow Lake is accessible only by air. Regular schedule airline flights are done by Austin Airways Ltd and Bearskin Air Services Ltd. Each airline flies 6 days per week from Monday to Saturday. Austin Airways Ltd has most scheduled flights in this area. They fly from Pickle Lake to Weagamow Lake then to Sandy Lake, Deer Lake, Pikangikum, and Red Lake. They fly back the same way in the late afternoon. Austin Airways Ltd also flies from Sioux Lookout to Weagamow Lake and Big Trout Lake and back the same way again. Bearskin Air Services Ltd flies from Sioux Lookout to Weagamow Lake to Sandy Lake and back to Sioux Lookout. This Air Service flies once a day for six days.

ACCESS con't

There is an all weather road from Pickle Lake, Ontario leading to the north shore of Windigo Lake which is open year round. Windigo Lake is approximately 27 miles south of Weagamow Lake and Pickle Lake is about 114 miles south east of Weagamow Lake. Winter road usually opens 60 days between January to March from Windigo Lake to Weagamow Lake.

ONLY A BRIEF HISTORY:

The people who are now living in Weagamow Lake used to live scattered within Weagamow Lake area. There were groups at North Caribou Lake, Nikip Lake, and Windigo Lake where treaty was signed. People from these areas then moved to Weagamow Lake to form a settlement. The reserve was situated at North Caribou Lake some 30 miles east of Weagamow Lake. Even though the reserve already existed at North Caribou Lake , the people still moved to Weagamow Lake. In the early 1970's Chief and Council of this band requested the Dept of Indian Affairs if North Caribou Lake Indian Reserve be transferred to Weagamow Lake. The request was granted later, the survey crew came to survey out the land which would become "Weagamow Lake Indian REserve #87," however, the band is still called North Caribou Lake Band.

ALL WEATHER ROAD:

The community of Weagamow Lake is aware of all weather road that is coming from Pickle Lake. The road is only 27 miles south of Weagamow Lake. There has been some talk about

ALL WEATHER ROAD con't

this road in the past by local people and band council of this band. The people and band council recognize that there would be some benefit and advantage to the community if all weather road comes to the community. Local businesses would enjoy if the all weather road comes to the community. Freight rates would slide down because big trucks would be able to bring the freight into the community. As it is now the freight rate is pretty high. For example Austin Airways Ltd freight rates are the following:

- (a) Pickle Lake to Weagamow ..... .32¢ per lb.
- (b) Sioux Lookout to Weagamow.... .57¢ per lb.
- (c) Red Lake to Weagamow ..... .47¢ per lb.

With these rates above people of Weagamow Lake pay substantial amount of money when they purchase groceries, fuel, gasoline, oil, propane, and clothing, etc. It would be better for the community and people if government would subsidize the high freight costs to the people of Weagamow.

Once the road comes to the community of Weagamow Lake, people and band council realize that there will be a lot of activities and projects taking place. Such projects would be mining, pulp cutting, water diversion which would mean to local people, destroying trapping, commercial fishing which they enjoy most at this time.

COMMERCIAL FISHING:

The main source of income in Weagamow is fishing. There are at least ten families or more and some individuals who do commercial fishing every year. Fishermen begin their fishing season on March until April, June 1 until October the 15th. This is their schedule of their commercial fishing. Round Lake Fisheries as they call themselves are the only fishermen in the area who catch most fish. Freshwater Fish Marketing Corporation (FFMC) is the company that buys their fish. Most fishermen make good income, it all depends on their experience while others make average. Fishermen of Round Lake (Weagamow) insist that government should allow them continually to do commercial fishing as this is the major income for the community. Round Lake Fisheries do their commercial fishing in various lakes. Round Lake Fisheries get their fishing licences from Ministry of Natural Resources for the lakes they fish. Each licence for every lake indicate how much fish they can catch and fishermen can also request additional catch if they wish.

Round Lake Fisheries have recently joined (NNFA) Northern Native Fisheries Association. This association have members from Weagamow Lake, Muskrat Dam, Bearskin Lake, Sachigo Lake and other interested fishermen who want to join in. N.N.F.A have established its base at the north shore of Windigo Lake. This way it has a better access to the all weather road that is coming from Pickle Lake. Koval Bros. Ltd, a trucking firm comes from Pickle Lake to pick up fish at Windigo Lake to deliver direct to Winnipeg. The N. N. F. A

COMMERCIAL FISHING con't:

have built a fish packing plant where they pack fish for shipment. The aircraft is also based at Windigo Lake. This aircraft is used to pick up fish at various fish camps then delivers them to Windigo Lake fish packing plant. It's economical to fishermen as it is a lot cheaper to ship their fish to Windigo Lake by plane then on to Winnipeg by truck. Round Lake Fisheries receive freight equalization payment from Ontario government which assists them due to high cost of transportation of their fish. Band Council of this band wish to see this type of assistance to continue. This way fishermen get more of their fish rather than getting .01¢ or .02¢ per pound especially jack fish (northern pike) after all deductions have been taken out of their wages. Band Council and fishermen of this reserve wish to see the continuation of licences issued by Ministry of Natural Resources. This helps Round Lake Fisheries to keep the lakes they fish.

TRAPPING:

The second major employer for the community of Weagamow Lake is trapping. The amount of income collected for this work depends the experience of an individual trapper. Good trapper can make good income. Each trapper gets a trapping licence from Ministry of Natural Resources which allows them to trap mink, beaver, etc., and are given a quota how many beaver a trapper can get on that particular year. Chief and

TRAPPING Con't:

Council stated that they wish to see this system continue where each trapper gets its trapping licence every year.

DANGER TO COMMERCIAL FISHING AND TRAPPING:

Council of this band and Round Lake Fisheries see some danger in the future which might destroy this major source of income people have and enjoy today. For example if mining is started near Weagamow Lake, they fear that the water will be polluted and this will destroy wild game and fish. This pollution of water will destroy commercial fishing and trapping which means destroying the main source of employment in the community.

TOURISM:

"Numerous clear lakes and rivers, wilderness, fishing and hunting potential." These are the words taken from "The Round Lake Ojibwa," and it continued to say "What are the possibilities of developing this resource? And more significantly, what are the possibilities of the Round Lake people benefiting from such development?"

The question about tourism in the community is two ways. Younger generation accept tourism as they plan to take part of the business. If this happens government is required to assist such a development. Local people who don't have jobs can be

TOURISM con't:

employed. There are several people from the community who are interested to take part of tourism business, and they want to be owners and operators of the business. It is not a pleasant sight to see if people from south take all tourism business.

Older generation refuse to accept tourism to come into their area. They have their reasons too. They say tourists come and kill moose. Some of these tourists don't really care about the whole moose to take home, they only take horns and the rest of the moose rots away. Tourists also bring liquor with them and gave liquor to their people. Some of these people who take liquor don't know how to handle the use of liquor. Older people see that this can be damaging to their community. Round Lake Fisheries also don't accept tourism totally. They say if this happens, they will lose their commercial fishing privileges. If some one plans to make tourism in Weagamow Lake area they must consult to the community first.

COMMUNICATION:

Bell Canada installed telephones at each individual homes some years back which was useful for communicating between homes. This type of communication was the improvement to the community because they can now communicate among themselves from their home. Long distance calls were not that great as Bell Canada only had single side band radio. This communication was inadequate because in some days the signals would go out for long time. Some

COMMUNICATION con't:

improvements were made later when Telesat Canada installed a dish . This improved long distance calls. Local people can dial direct without operator's assistance. More improvements are expected in the near future as Bell Canada anticipates to install micro-wave system.

HEALTH:

Round Lake Nursing Station was built in Weagamow Lake in the year of 1969. Before nursing station existed nurse from Pickle Lake visited the community occasionally to check patients that needed medical attention. The only time Weagamow people saw the doctor was on Treaty Days where the doctor used to come along with the treaty party that visit the Weagamow once a year. This used to take place in the early part of June every year. People used to get medical check up from the doctor and get x-rays taken. Dentist came once a year to Weagamow to check dental needs. The condition where medical team used to work were not that great. They used to work either at school or at the Bay store. When nursing station started to operate these problems were eliminated.

The opening of the nursing station one nurse stayed permanently, gradually two nurses stayed and today Round Lake Nursing Station has three permanent nurses. Round Lake Nursing Station has three other satellites that they visited regularly.

HEALTH con't:

In the early part of 1983 the Round Lake Nursing Station plan to hold a conference would involve various people such as mental workers, health workers, policemen, etc. These people will explain to the people of their work so the people can achieve physically, mentally, socially, etc.

The community of Weagamow Lake require better medical facilities to be available to them. Some problems were raised and concerned by the local people with regard to medical. This is nothing to do with people who have emotional problems but to those who are truly sick. Some people who are sick sometimes are turned down because they are told that they are not sick. The medical people at the nursing station do not find the problem until that person gets sick seriously. This is the reason why the people of Weagamow complain. People of Weagamow also require good dental care.

EDUCATION:

Weagamow Lake people first saw school in 1953 which was built in their community. It was a one room classroom. Then in 1963 second school was built with three classrooms. In 1971 another school was built. As the community had more students DIAND-education branch built more classrooms for students to attend school. Today the school in Weagamow has eight school teachers, one teacher aide, and one special teacher aide. The school also has a staff which consists of a secretary and school counsellor. The school in Weagamow today takes students up to grade 10 and any student who wants to continue its education goes south for further education.

EDUCATION con't:

However, few students find difficulty at school when they go out. The school down south is different than it is in the reserve. When students go out they find themselves repeating the same grade all over again. High schools down south provide further training and more credits. In that high school, student can choose whatever he or she wants to learn such as typing, book-keeping, business law, auto-mechanics, carpentry, etc. The schools in Weagamow do not provide these type of courses available for the students.

Therefore, the people of Weagamow Lake request that further courses be available to the students who are attending school in Weagamow Lake, so that the students would not lack any educational knowledge.

TRANSPORTATION:

As we have mentioned the air freight rates on page four of our report, we indicated how much Weagamow Lake people have to pay for the freight costs alone. The Bay did not inform how much air freight they are paying, they say that it's confidential. However, the manager was able to give the following prices of the following items:

flour 10kg .....	\$18.50
sugar 2kg .....	3.50
gasoline .....	4.00/gal treaty and \$4.30 per gallon for non-treaty.

TRANSPORTATION con't:

The people and band council of this band request that freight rate subsidy be given to individual families so that they can be helped financially for the high cost they have been paying. This type of problem should not be used as an excuse to push the all weather road into Weagamow Lake. People of Weagamow Lake should be considered first and the problems they face.

MINING, WATER DIVERSION, PULP CUTTING:

As we have mentioned the above subjects on this report on page four, we have indicated that once all weather road comes into the community of Weagamow Lake, the community realizes that there will be a lot of projects taking place. As band council and local people look at the projects such as mining, water diversion or hydro dams, and pulp cutting the commercial fishing, trapping and hunting privileges will be destroyed. See Appendix A, B, & C.

As people and band council see these projects commenced within Weagamow Lake area, band council and people of this band will request compensation be paid to them for the loss of their commercial fishing, trapping and hunting privileges. And at the same time, as long as the project or projects operate within Weagamow Lake area, the band council of this band and people will request certain percentage be paid to them for the total revenue the company or companies are making. This is very important to be understood.

See Appendix D

# APPENDIX "A"



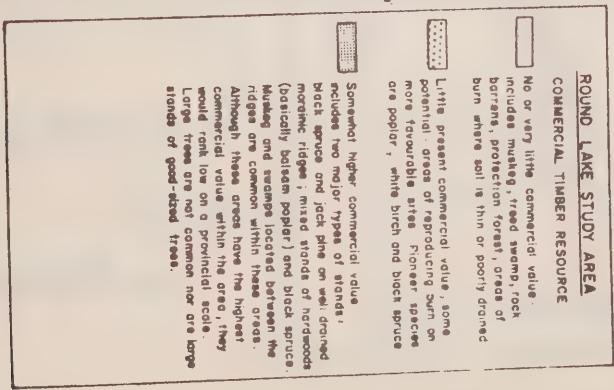
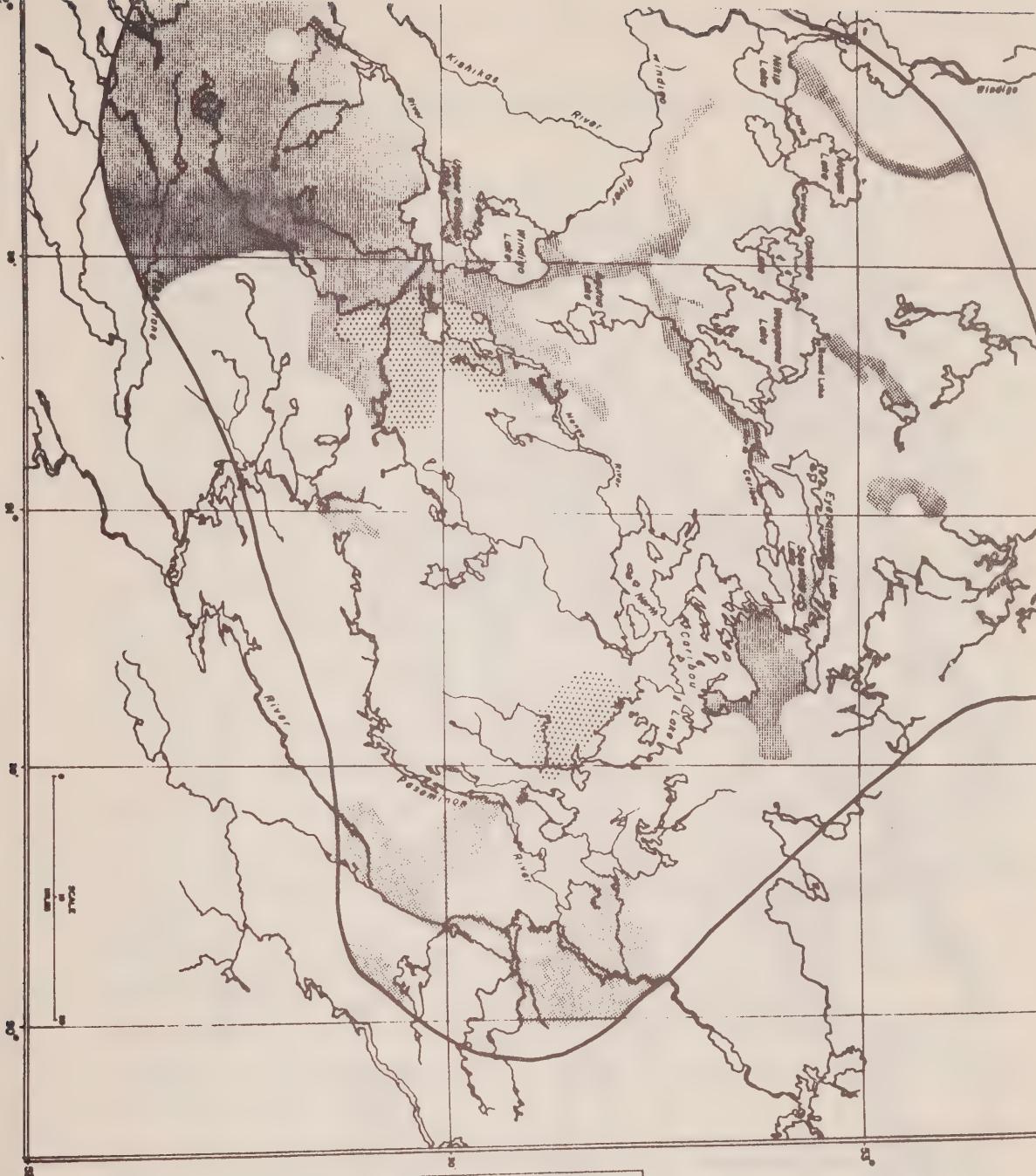
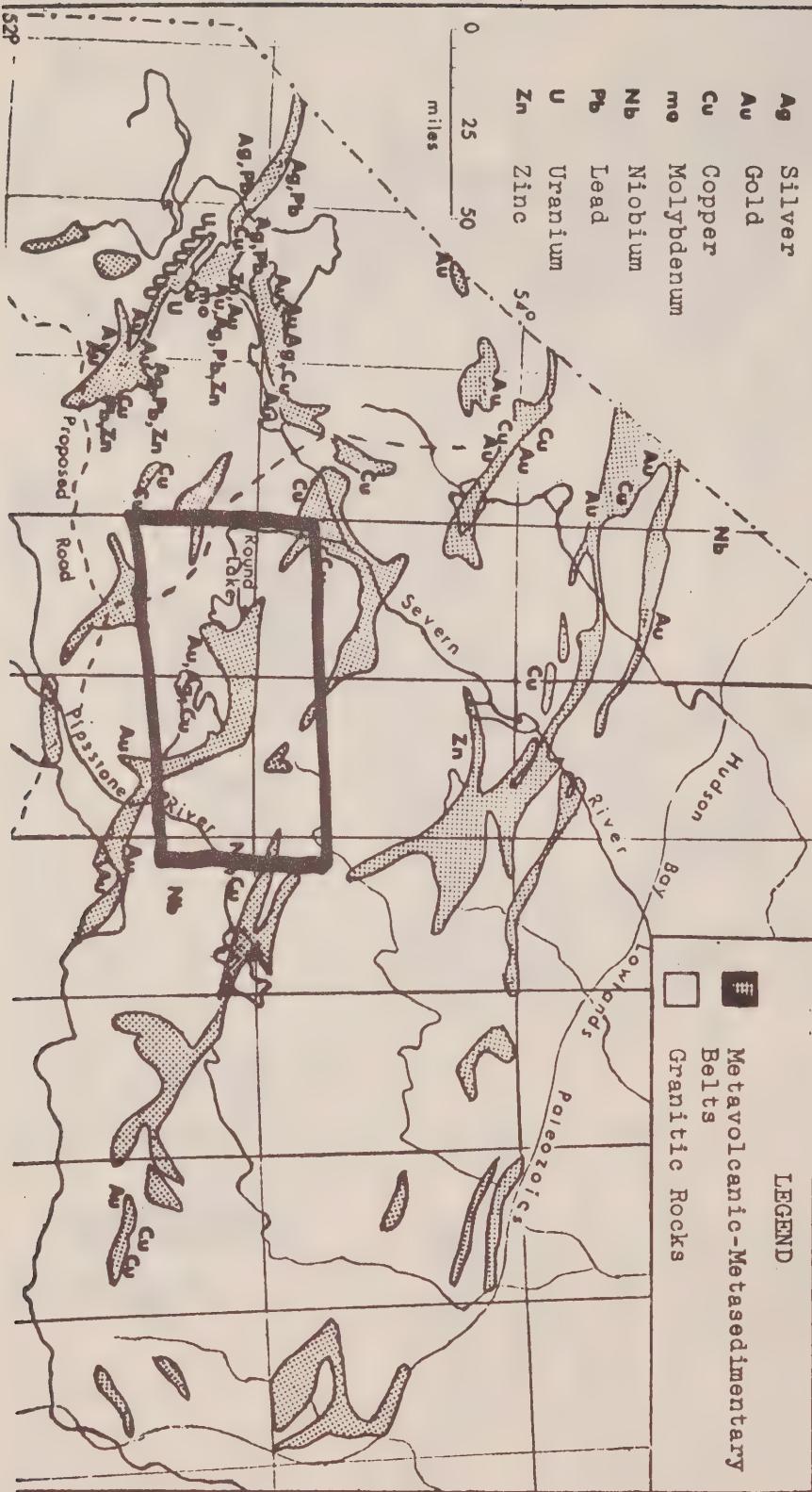


FIG. 2:37

**APPENDIX  
"B"**

Figure 2:39 MAJOR MINERAL OCCURRENCES

APPENDIX  
"C"



## CONCLUSIONS

It is my belief that the persistent N30°W trending diabase dyke extending from Pickle Lake is a well-developed member of a set of such dykes which are deep-seated fundamental structures of the earth and along which considerable folding and alteration has occurred. It is felt that such northwest folding has occurred in the area east of Lake Weagamow and that these structures have diverted the course of a later N60°W shear causing the horsetailing mentioned previously. These circumstances have produced intense concentrations of stress at pronounced older folds resulting in the formation of ultramafic rock in the shear at these points. It is considered that these concentrations of stress are favourable for mineral concentration.

The association of anomalous copper values along such a shear is considered very favourable.

It should also be mentioned that every producing mine in Ontario, including uranium mines, is located on or close to a centre of gravity high. A gravity high is a result of local over-compensation for isostasy and indicates a local strong development of more mafic rocks, including ultramafics. The presence of such a gravity high near Weagamow Reserve is thus considered favourable.

In my opinion, the mineral potential of the Weagamow Reserve is good.

## APPENDIX "D"

TAKEN FROM "Mineral Potential Report"

By F.A. INNES

REFERENCES

1. The Round Lake Ojibway 1968-70  
Dept. of Lands and Forests
2. Technical Report DIAND by Gartner Lee Associates Ltd  
Project # 73-54 Feb. 1974
3. Mineral Potential-Weagamow Lake Indian Reserve No. 87  
by F. A. Innes, Mining Engineer & Geologist  
Toronto, Ontario March 6, 1978

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SUBMISSION TO  
ROYAL COMMISSION ON  
NORTHERN ENVIRONMENT

Ministry of Community  
and Social Services  
Government of Ontario

March, 1983

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MINISTRY OF COMMUNITY AND SOCIAL SERVICES (M.C.S.S.)

SUBMISSION TO ROYAL COMMISSION  
ON NORTHERN ENVIRONMENT (R.C.N.E.)

A. Background

In 1977, the Ministry of Community & Social Services\* responded to the Royal Commission on Northern Environment's (R.C.N.E.) request for submissions. The Ministry was again asked for an updated submission in late 1982 and this report is the response to this most recent request of the R.C.N.E.

The Ministry of Community & Social Services does have an important role in responding to this Commission in that the reason for the existence of some of the Ministry of Community and Social Service programs has often been the direct result of economic ills related to the management of resources.

The M.C.S.S. response will address briefly:

- i) the subject matter of the R.C.N.E. inquiry;
- ii) the Ministry's perspective of the social, physical and economic environment of the remote North and;
- iii) speak respectively to the specific concerns of the Commission as articulated in the next section.

B. Subject Matter of the R.C.N.E. Inquiry

The Commissions pamphlet on "Hearings: Procedural Rules and Guidelines" comments on the subject matter of the inquiry as follows:

"The subject matter of the Commission's inquiry will focus on perspectives on development and the decision-making process as it relates to the Environmental Assessment Act and resource allocation and management."

Specifically, the Commission is interested in hearing comments on:

1. "how the decision-making processes could be improved for the allocation, use and management of natural resources, for land use planning and for environmental assessment and protection;
2. what approaches towards development in the major resource-based industries could increase benefits and reduce negative environmental impacts in Ontario north of 50° and;
3. what alternative approaches towards natural resource allocation, use and management could help to strengthen the economic and social base of communities in Ontario north of 50°".

\* For a description of the Ministry's recent Northern program development, and management structure, please see Appendix A.

C. The Environment of the Remote North. (Social, Physical, Economic) from an M.C.S.S. Perspective

I Social Environment

(i) Jurisdictional Complexity

The context in which M.C.S.S. functions is very complex in that the social services administrative system of the North involves 4 levels of Government- federal, provincial, municipal and the Indian Bands (Reserves, Settlements) - and a host of private agencies participate.

North of 50 much of this complexity of services and systems is limited to no more than six municipal governments in the area\*, Indian Bands and several private social service organizations of varying sizes ranging from children's aid societies to small mental health centres for children.

(\* much of the remote north consists of unorganized communities)

Outside the municipalities, the social service administrations operating in the area are: the Federal Government, through the Departments of National Health and Welfare and Indian Affairs and Northern Development; the Ontario Government, through the Ministry of Community & Social Services, and the Indian Band Councils.

Also, the Ministry interacts with the Ministries of Health and Northern Affairs in the gray areas of social and health related services, e.g. extended care which is provided by M.C.S.S. Homes for the Aged, Health's Nursing Homes and assisted by Northern Affairs, "Extended Care Capital Assistance Program."

(ii) Heterogeneity

The remote North is made up of many different kinds of communities- different in language spoken (Cree, Ojibway, French, English...) different cultural patterns, population and economic base, degree of isolation, etc.

(iii) Social Problems

Due to a number of cultural, physical and economic reasons, the North has a very high incidence of unemployment, poverty, alcoholism, crimes of violence, accidents, child neglect and family violence.

(iv) Catchment Areas

Due to the small and scattered northern population, service regions are difficult to design. One must often choose among, quality, effectiveness and efficiency. The issue is compounded by the physical environment.

(v) Service Delivery Models and Staffing

As a result of the social, economic and physical environment of the North, many types of complex and expensive service models must be set up involving fly-ins and satellite offices. There is a high degree of staff turnover and there is always the problem of attracting staff to work in remote locations or training indigenous staff to provide on site service or social support.

## II Physical Environment

### (i) Accessibility of Services

The North is generally characterized as having harsh weather and terrain which impacts heavily on the accessibility of services. Government is often confronted with major decisions about establishing service delivery systems in relation to issues of facilitating access versus the cost of developing programs for small population bases. In addition, clients face similar problems in deciding to access service due to physical, psychological distance as well as costs associated with travel to seek assistance/support.

## III Economic Environment

### (i) Unemployment

Northern rates of unemployment are extremely high. Approximately one third (33 1/3%) of the population is obtaining some income assistance, with the Indian population experiencing a 50% rate. Such levels of unemployment lead to a high incidence of social problems. Much of the employment is based on seasonal work.

### (ii) Economic Base

Most of the communities in the remote North have a limited economic base and are unable to develop or contribute to social services. Because of the lack of economic diversification, most areas experience high rates of unemployment and subsequent social problems.

## D. R.C.N.E. - Question 1

How could the decision-making processes be improved for the allocation, use and management of natural resources, for land use planning, and for environmental assessment and protection?

## MCSS Response

Social dislocation often occurs when economic decisions are made in isolation without consideration being given to social effects. For example, decisions to access natural resources can have a potential social impact on affected communities. This impact can be negative unless there is consideration given to corresponding social and human support services.

The Ministry operates under a decentralized administrative system in that all budgetary and legal control over program administration has been delegated from the Minister down to the Area and District Management level for decision-making. Thus, Area/District Managers are able to plan and develop services within their broad catchment areas in a manner reflective of the unique social, linguistic and cultural needs of their constituents.

Major social service policy decisions are generally preceded by an extensive public consultation process such as the current consultations with regard to a proposed "Children's Services Bill".

It is recommended to the Commission that any government economic action (through contract or its own action) include, within its initial plan, a "social impact" study.

The study would examine, for example, such things as the development of employment opportunities for local residents; the activities necessary to develop and/or maintain social cohesion; housing, health and educational needs....

All of the following prime actors in the social services business in the North should be consulted:

1. The Federal Government: Department of Health and Welfare and Indian Affairs and Northern Development;
2. The Ontario Government: Ministries of Community and Social Services, Health and Northern Affairs;
3. Municipality (ies) affected;
4. Indian Band (s) affected and; treaty organizations
5. Private agencies concerned.

With high-technological advances, our ways of communicating should improve. In the future, such systems, as teledon or video tele-conferencing, should allow for greater accessibility of those concerned to public decision-making. For example, major decision-making made in centres outside the remote North, but affecting it, can utilize high technology to survey and to hear concerns of the impacted communities. Government services should be encouraged to experiment with new ways of communicating.

E. R.C.N.E. - Question 2

What approaches towards development in the major resource-based industries could increase benefits and reduce negative environmental impacts in Ontario North of 50°?

M.C.S.S. Response

As noted in the response to Question # 1, a social impact study is very important in trying to determine the effect of new economic development, or the effect of any expansion or contraction of existing industries/ enterprises.

If we interpret environment to mean the social environment, there are a number of initiatives that the major resource-based industries could take, for example:

Employee programs:

- A) to provide a community orientation for new residents to that area
- B) to stress accident prevention;
- C) to indicate to whom or where to go with social problems such as alcoholism, need for counselling, child abuse/neglect, family violence;
- D) to reduce barrier between and among different ethnic groups.  
(cross-cultural programs);
- E) to provide day care assistance
- F) to provide employment counselling and retraining assistance.

F. R.C.N.E. - Question 3

What alternative approaches towards natural resource allocation use and management could help to strengthen the economic and social base of communities in Ontario north of 50°?

M.C.S.S. Response

Communities should not be based solely on one industry/enterprise, but rather should strive to have some diversification in order to achieve some protection against the vagaries of market conditions. The "Boom/Bust" syndrome is all too familiar. If there is an increase in the demand of a particular resource, a community may experience an economic "boom". The opposite or "bust" may occur when the resource has been depleted or there is a falling off of the demand.

Accompanying the "boom" is a rapid increase of the resident population with less than adequate services and conveniences being provided. Resident conflict and sanitation problems usually develop. Alcohol abuse and marital discord are often present.

When the "bust" occurs, there is a fast economic decline and an outward migration of the population. Resident families remaining are profoundly affected as services and conveniences decline and breadwinners laid off are forced to seek unemployment insurance or social assistance. Social problems are the result.

Towns and communities with governments (all levels) must plan and control, where necessary, economic development in order to avoid the massive social dislocation that is manifested in "boom/bust" towns and communities.

The Northern Regional Office of the Ministry of Community and Social Services is presently studying the implications for social service planning of "Boom/Bust" communities.

G. Summary

The Ministry of Community and Social Services is pleased to have had the opportunity to respond to the Royal Commission on Northern Environment. As the social environment and the physical environment are inextricably linked, it is essential that any natural resource development be studied from a social perspective, such as by social impact studies. As part of the impact study, those concerned would be consulted, allowing for better planning, implementation and management of the initiative. The Ministry's decentralized approach to managing its resources may be of interest to the Commission and have applicability elsewhere. The Ministry will look forward to the Commission's recommendations on the "Last Frontier".

## APPENDIX A

### M.C.S.S. Programs

The programs of the Ministry of Community and Social Services can be discriminated into three types; those delivered directly by the Ministry; those delivered by local government structures such as municipalities and Indian Band Councils; those delivered by private agencies supported in whole or in part by government, such as the Children's Aid Societies.

Essentially, the Ministry programs are divided into four major categories:

- a) Income Maintenance
- b) Adult Social Services
- c) Children's Services
- d) Services to the Developmentally Handicapped

Broadly, the above categories include living allowances to those in need, ("income maintenance"); residential care for the aged, the retarded or other disadvantaged persons and programs in the community to sustain such persons; remedial programs of counselling and rehabilitation; community and institutionalized correctional care and rehabilitation; child welfare and day care services; programs offering children's mental health care; a wide range of community support programs for children and families with special needs...

### M.C.S.S. Social Services Administrative System

The context in which M.C.S.S. functions is very complex in that the social services administrative system of the North involves 4 levels of Government - federal, provincial, municipal and the Indian Bands - and a host of private agencies participate.

North of 50 much of this complexity of services and systems is limited to no more than six municipal governments in the area, Indian Bands and several private school service organizations of varying sizes ranging from children's aid societies to small mental health centres for children.

Outside the municipalities, the social service administrations operating in the area are: the Federal Government, through the Departments of National Health and Welfare and Indian Affairs and Northern Development; the Ontario Government, through the Ministry of Community and Social Services, and the Indian Band Councils.

Since 1979, M.C.S.S. has been moving away from a centrally controlled organization with narrowly defined program delivery systems into a decentralized administration, able to move social service delivery into an integrated approach to the client and his/her family. Several principles of service delivery were adopted to form the philosophical basis upon which the Ministry would pursue a more accessible and responsive social service administration. These were later adopted by the Northern Region and formed the basis of an adult/child approach to social services.

The resulting effects of this articulated direction is realized in our current organizational structure. Four regional offices have been established in the Province:

- a) Sault Ste. Marie - North
- b) London - Southwest
- c) Kingston- Southeast
- d) Toronto - Central

Each region has created geographically distributed Area Offices to manage the funding and program delivery of Ministry legislation for a given catchment area.

In the North, effective May 1, 1983, the 3 Area Offices will be located in:

- i) Thunder Bay to service the Districts of Kenora, Rainy River and Thunder Bay,
- ii) North Bay to service the Districts of Cochrane, Timiskaming, Nipissing, Parry Sound and Muskoka; and
- iii) Sudbury to service the Districts of Algoma, Sudbury, Manitoulin.

Even with these dispersed administrative locales, many Area Offices have created sub-offices to be more accessible to the various programs and communities for which they are responsible - i.e. district offices are located in Timmins, North Bay, Sudbury, Sault Ste. Marie; Thunder Bay and Kenora.

It is important to note the significance of this decentralized administration in that all budgetary and legal control over program administration has been delegated from the Minister down to the Area and District Management level for decision-making. Thus, Area/District Managers are able to plan and develop services within their broad catchment areas in a manner reflective of the unique social, linguistic and cultural needs of their constituents.

This Management system will provide an integrated service delivery system for children and adults. It has been designed to avoid duplication in service patterns and to maximize the use of available resources to ensure equitable distribution of programs wherever possible, for residents of the North.

It is evident that many of the services and programs funded by the Ministry of Community and Social Services are slowly expanding to improve accessibility to residents north of the 50°. In addition, we have witnessed an increased emphasis on support services within the North to enhance the ability of families to cope with the pressures of isolation, poverty, old age, etc.

Emanating from the extensive reviews of social services to Indians by the Federal Department of Indian Affairs and Northern Development, there have been some significant improvements and developments in the social service delivery network to reserve communities.

Some examples of the Northern program development for children with specific needs are as follows:

- a) Creation of an integrated children's service delivery program in Moosonee to service the James Bay Coast. A supervisor of children's services was hired by the Ministry to assume responsibility for supervising the delivery of probation and aftercare, child welfare, children's mental health and observation and detention services for Moosonee and the James Bay Coast. Within Moosonee a multi-purpose residential facility has recently been opened to service children from the Coast requiring various forms of residential care - i.e. detention, treatment, care and protection. In essence, the program is intended to prevent sending children further south to large residential facilities such as Cecil Facer Training School in Sudbury. As a result, Moosonee now has resident Child Welfare, Probation and Aftercare, Mental Health and Observation and Detention services for children.
- b) A distribution of probation-aftercare services for the Remote Northwest has resulted in the hiring of five native persons to assume duties as probation and aftercare officers. One officer lives on Whitedog and serves that community, while another officer lives at Grassy Narrows to serve that reserve. In the more remote portion of the District, three officers are located on Sandy Lake, Weaganow and Kasabonika to service three Treaty Nine Program Development Areas.
- c) A children's mental health program has been established in Dryden and given the mandate to ensure provision of services to the Central Patricia Region. In an attempt to carry out this mandate the agency has located mental health workers in Sioux Lookout, Red Lake, Ear Falls and Savant Lake, while ensuring back-up professional resources out of Dryden.
- d) In the interest of ensuring culturally appropriate services and promoting native involvement in child welfare services, the Ministry launched a new initiative for native child welfare prevention programs on reserves. This initiative involves a co-operative effort with the local children's aid society and the Indian Bands to hire local residents to assume child welfare prevention activities on the reserves. There are currently some programs operative North of the 50th parallel.
- e) Given the wide range of geographical and social disparities within the North, there is general agreement that innovative approaches to social service delivery is required to adapt to local conditions. To this end, the Ministry has funded a unique community development program in Thunder Bay via Confederation College to hire and train indigenous community development workers for small and remote communities. To date, we have workers resident in Armstrong, Nakina and Geraldton serving the populations along the C.N. Railway line. The workers are responsible for co-ordinating services coming into those communities from outside agencies as well as promoting the development of self-help alternative programs to support the community's social needs.

- f) Two additional programs have been developed for juveniles that serve the remote Northwest. Both Kenora and Thunder Bay have established eight bed observation and detention programs for adolescents that require custody prior to appearance in Family Court.
- g) A wide range of community support programs for developmentally handicapped children have been expanded into the more remote areas of the North:
  - i) Infant Stimulation services have been created within Cochrane District through the Cochrane-Timiskaming Resource Centre.
  - ii) Infant Stimulation Services are now available at Whitedog and Grassy Narrows via the Kenora Public Health Unit, and in Sioux Lookout, Red Lake, and north of Geraldton with the funding of new programs
  - iii) A special new initiative has now been launched to provide for funding for developmentally handicapped children living at home but requiring additional special support services on an individual basis. These funds are available to families who require material and service assistance in caring for their developmentally handicapped child.
- h) Since the 1977 submission, developments have occurred in the day care program. New municipal centres have been established in Long Lac (45 spaces), Balmertown (25 spaces) and Sioux Lookout (25 spaces). The Moose Factory Day Care Centre has completed renovations and now can accommodate 45 children. Within Moosonee the Day care program has been given a new location with potential for expansion to 45 spaces if required and funds permit.

The future holds many more opportunities for improved social services for status Indians. Community & Social Services has been participating in tripartite discussions with respect to service delivery on reserves. In August, 1982, a tripartite Indian Social Services Planning Committee\* was established to plan the implementation of new service initiatives on reserves. These proposed new initiatives will potentially have a dual focus:

- o developing a planning and administrative capability at the band and association level;
- o developing services that involve the bands in administrative and delivery roles.

Although acknowledging that there is still considerable work required to improve social support services North of the 50°, this Ministry remains optimistic that the commitment and direction for social services will see continued developments of a progressive nature to support this part of the Province's population.

\* Indian Associations, Provincial Government (M.C.S.S.) and the Federal Government (I.A.N.D.)



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THE SACHIGO LAKE BAND

SUBMISSION TO

THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT

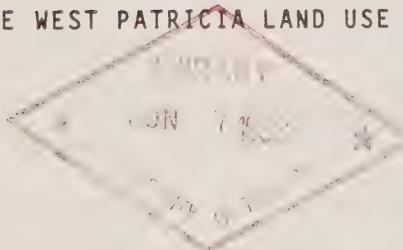
IN RESPECT TO

LAND USE PLANNING

AND

IN PARTICULAR

THE WEST PATRICIA LAND USE PLAN



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## I. INTRODUCTION

### A. THE WEST PATRICIA LAND USE PLAN

The Ministry of Natural Resources has for several years been preparing what it refers to as a "comprehensive conceptual land use plan" with the stated purpose to "both identify and help resolve conflicting demands on the region's resources". The Ministry has also stated that it encouraged public participation in the development of this land use plan, however the Sachigo Lake Band has not had the opportunity of participating in this process. We therefore approached the Royal Commission on the Northern Environment to obtain funding to review the proposed West Patricia Land Use Plan and to conduct our own planning process. Funding in the amount of seven thousand dollars was approved for this purpose.

### B. METHODOLOGY

We first held community meetings in both Sachigo and Ponask to explain the West Patricia Land Use Plan Proposed Policy and Optional Plans and discussed the effect that these would have on our communities if implemented. We then worked in small groups to prepare what we considered to be an appropriate plan for the area. Once this was completed we compared our plan with the West Patricia Land Use Plan. A report was prepared and presented to the communities for further comment. This submission was then prepared.

## I. INTRODUCTION (continued)

### C. SETTING

The Sachigo Lake people live in an area located approximately 320 km. north of Red Lake which can be defined by the Lower Gods River, Echoing River and Sachigo River Watersheds within Ontario. There are two communities within this area, Sachigo Lake and Ponask, with a combined population of three hundred full time residents all of whom are Indian. The people were formerly considered members of the Big Trout Lake Band, however, their independent status was recognized in 1976 and three reserve areas were allotted. The majority of the area is utilized by the Sachigo people in their traditional pursuits of hunting, fishing and trapping, however, residents of Red Sucker in Manitoba were issued traplines in the western part of the area by the Ontario Government.

A small portion of the land is considered to have been ceded in 1909 by the Island Lake Bands adhesion to Treaty No. 5. The balance is considered to have been ceded by the 1929 adhesion to Treaty No. 9. The actual boundary between the two Treaties is ill defined but appears to run on a line from the middle of Ney Lake in the North to the middle of Seber Lake in the South.

Both Treaties guarantee the rights of the Indian people who signed them to hunt and fish in their respective Treaty area.

## I. INTRODUCTION (continued)

### D. ADMINISTRATIVE RESPONSIBILITIES

The Sachigo Lake Band Council is the local government for the communities of Ponask and Sachigo Lake. It is affiliated with the Windigo Tribal Council and also the Nishnawbe-Aski Assembly of Chiefs.

The Federal Government is responsible for such Treaty obligations as health and education and also has the legislative responsibility for fish and migratory birds. It administers the majority of these programs from Sioux Lookout through the Department of Indian Affairs and the Department of Health and Welfare.

The Ontario-Manitoba border was created in 1929 at which time this area became part of Ontario. The Ontario Government's main interests in the area are looked after by the Ministry of Natural Resources, however, the boundary between the Red Lake District and the Sioux Lookout District of the M. N. R. divides the Sachigo Lake Area. As with the Ontario-Manitoba border, this division is artificial and does not take into account the natural features of the area nor the traditional territories of the Indian people.

## II. OUR UNDERSTANDING OF THE PLAN

We will be referring to Optional Plan D as it appears that this is the plan being proposed by the Ministry of Natural Resources. In this plan four zones have been identified as affecting our area. These are zones 1 and 3 in the Red Lake District and Zones 39 and 40 in the Sioux Lookout District.

Our first observation was that the Ministry has jealously guarded the District boundaries in this process. We believe a planning exercise should have resulted in a realignment of District boundaries to reflect the landforms of the area and the land that is utilized by communities. The Ministry has not attempted to do this.

In reality there are only two zones that we should be considering. The first is comprised of zones 1 and 39 in which the Ministry has stated that:

- the importance of this area to traditional users will be recognized.
- increased levels of activity in commercial fishing, trapping and mineral exploration and development will be encouraged.
- commercial tourism facilities should be developed.

The second zone is comprised of the Ministry's zones 3 and 40 in which it is proposing the Opasquia Wilderness Park. Present activities will be permitted on an interim basis.

## II. OUR UNDERSTANDING OF THE PLAN

At first reading, the proposed wilderness park does not appear to affect us that much, however we then reviewed the Ontario Provincial Parks Planning and Management Policies in which it is stated for Wilderness Parks that:

Commercial fishing will not be permitted on water bodies entirely enclosed within Wilderness Parks.  
and,

Sport hunting will not be permitted in Wilderness Parks.  
and,

Existing commercial trapping rights will be phased out in a manner least harmful to the economic wellbeing of existing trappers indigenous to the area. No new trappers or traplines will be permitted. Commercial trapping will not be permitted in Nature Reserve Zones.  
and,

Motorized land vehicles and watercraft of any kind will not be permitted, except for access purposes in Access Zones.

As this is the stated policy of the Ontario Government for Wilderness Parks, we believe that the Ministry has deliberately tried to mislead us by not stating this in the West Patricia Land Use Plan. It is actions like this that make us very mistrustful of the Ministry of Natural Resources.

The Sachigo Interlobate Moraine runs through the proposed park. This moraine would be the natural route for an all weather road to Sachigo should we ever wish one. The West Patricia Land Use Plan has not taken into account the location of future roads and we are concerned that if a Wilderness Park is established, future road construction through it will be discouraged.

### III. THE SACHIGO LAKE PROPOSAL

#### A. The Sachigo Lake Administrative Area

The boundary between the Red Lake District and the Sioux Lookout District is artificial and does not take into account the natural features nor the traditional territories of those people living there. The many overlying boundaries are confusing and inefficient. It is proposed that the Sachigo Administrative Area be established East of the Ontario-Manitoba border and that all relations with the Ministry of Natural Resources be transacted through their office in Sioux Lookout.

The purpose of the proposed Administrative Area is to provide a mechanism for long term community planning, conservation of the natural resources, a greater control by the residents of the economic opportunities available and involvement in the enforcement of regulations. At the same time it is anticipated that the implementation of this proposal will enable both the Federal and Provincial Governments to carry out their responsibilities in a more efficient and sensitive manner.

It should be understood that this proposal will not affect aboriginal, treaty or constitutional rights of any of the parties.

## B. Trapping

The present trapping boundaries were established by the Ontario Government in the late forties and early fifties. To some extent they represented traditional family territory, however, many discrepancies are apparent. The most important to the Sachigo Band members is the allocation of traplines in the western portion of their territory to people from Manitoba. Before traplines were established, the land in this area was used by both the people from the Island Lake Band and the Sachigo people. It is assumed that the purpose for creating the trapline boundaries was to provide a mechanism for establishing the number of animals and from where they are harvested, and to set quotas in order to conserve the stocks.

Although we can support this objective, the effect has been to dispossess us of a portion of our traditional hunting territory.

In R vs Simeon Cheecho, the District Court found that a Status Indian when in his treaty area, could trap without a licence. This decision has confirmed our position. We therefore plan to begin trapping again in the western portion of our territory. We will however prepare a mechanism whereby conservation of the animals will be ensured.

A system of recording fur harvest will be maintained based on the watershed in which the animals were harvested. The watersheds could be numbered in the same manner that M.N.R. presently uses.

## B. Trapping (continued)

A trapping committee will be established to coordinate all aspects of trapping within the area including the preparation of regulations, establishment of quotas and the allocation of areas. Wildlife officials from the Ministry of Natural Resources will be consulted in this regard. The people who have registered traplines in the western portion of the area will still be allowed to trap there.

An Indian Wildlife Officer (discussed later) will be in charge of enforcing the Management Area trapping regulations.

In recognition that the southerly portion of the trapline recorded by M.N.R. as #S-91-298 is the traditional trapline of a resident of Muskrat Dam, this area will not be included in the Sachigo Lake Management Area.

A portion of trapline #S-37-336 has traditionally been used by a family now residing in Sachigo Lake and will be included in the Management Area.

## C. Hunting

The Sachigo Lake Band is dependent on wild meat for a large portion of its food requirements and both moose and caribou are relatively plentiful. Treaty rights allow hunting year round. Hunters will continue to respect traditional hunting territories and obtain appropriate permission before hunting in someone's territory.

### C. Hunting (continued)

If at some time in the future the populations of moose and caribou appears to decrease, the band will close selected areas to hunting in order to ensure a healthy population.

The present population of moose and caribou provides the potential for developing hunting camp operations. Such enterprises should be controlled by members of the Sachigo Lake Band and to ensure future control, at least 25% of any camp in the area will be owned by the Band and a maximum of 25% owned by outside people. The balance will be owned by a band member or local corporation.

Due to the Band's reliance on moose and caribou for food, any successful sports hunter will be responsible for ensuring that the majority of the meat is transported to the community.

### D. Fishing

The majority of waters in the proposed Management Area are recorded as having a moderate to high fish productivity level, the exception being Echoing Lake where the productivity is considered to be low due to its deep, cold and nutrient-poor basis. At present there are no sports fishing operations in the area and fishing activities are related to harvest fishing for community consumption or commercial fishing in Stull and Pierce Lakes by people from Red Sucker and Seeber, Ponask and Sachigo Lakes by people from Sachigo.

## Fishing (continued)

### 1. ZONES

Zone 1 All of Sachigo Lake and Ponask Lake will be considered Zone 1 in accordance with the Tripartite Fishing Agreement and all opportunities related to fishing will be reserved for the exclusive use of Sachigo Lake Band members.

Zone 2 In all other waters within the Area all commercial fishing opportunities shall be reserved for the exclusive use of the Indian people of Sachigo, with the exception of Stull and Pierce Lake which will be reserved for residents of Red Sucker. In addition, the economic opportunities related to sports fishing, such as the establishment of tourist camps, and the issuing of fishing permits will be reserved to the Sachigo Lake Band.

### 2. HARVEST FISHING

Sachigo Lake Band members and Manitoba Indians who have traditionally fished in the Area may "harvest fish" at any time of year by whatever means without a licence or authorization except in Echoing Lake. "Harvest fishing" means fishing for food for an individual, for a family, or for band use or for barter between communities where the majority of residents are Indian. This includes the right to sell, trade or barter fish among Indian people within the Band or community.

## 2. HARVEST FISHING (continued)

In recognition of the sensitive nature of Echoing Lake, nets will be allowed only by the family whose traditional trapline it is within. For this lake "harvest fishing" is restricted in meaning to fishing for food for an individual, for a family, or for band use and does not include the right to sell, trade or barter lake trout. Sachigo Lake Band members will be allowed to angle for lake trout at any time of the year, however, if they are using the proposed facilities at Echoing Lake for recreational purposes, they will be subject to the same regulations applicable to non-resident fishermen.

## 3. PERMITS

A fishing permit will be required by all non-residents in order to fish in the Sachigo Area. Permits will be issued at a nominal charge and will be subject to the applicants stating that they will not bring alcoholic beverages into the Area.

Non-residents will be subject to the provisions of the Ontario Fishery Regulations. For Echoing Lake a request will be made to limit the possession limit of lake trout to two.

#### 4. COMMERCIAL FISHING

The people from the Island Lake Band will be responsible for all activities relating to commercial fishing in Stull Lake and Pierce Lake.

In all other lakes within the area, a commercial fishing committee will be established to advise the Band Council on all rules and regulations relating to commercial fishing. The committee will recommend the lakes to be fished, the establishment and distribution of quotas and the fishing season. The Band will consult with the Ministry of Natural Resources before establishing these regulations.

#### 5. TOURIST FISHING CAMPS

The Band recognizes that it is essential that tourist operations be run on a sound business basis and that these operations be independent from the Band. A Community Economic Development Corporation will be established that will handle the community's interest in any operation. It is proposed that this corporation will hold a 25% interest in a base camp-hotel operation and a 25% interest in all tourism operations within the Management Area. A maximum of a 25% interest may be owned by outside people.

No alcoholic beverages will be allowed in any fishing camp. This stipulation will meet the Sachigo Lake Band's concern that alcohol be kept out of the community, while at the same time providing a unique tourism facility geared to non-drinkers.

## 5. TOURIST FISHING CAMPS (continued)

The Band intends to construct a Base Camp in Sachigo Lake in 1983 to accomodate 16 guests. This building will also be used as a motel for the balance of the year. Also in 1983, two sub-base camps will be constructed, one at Little Sachigo Lake and the other at Echoing Lake. During the course of the summer, outpost camp locations will be identified. The sub-base camps will be designed for 10 fishermen but will have the capacity to accomodate 16 in case the weather is out and they cannot travel to the outpost camps. Promotion will take place during the winter of 1983-1984 and the camps will open in the summer of 1984.

Lawson Lake has also been identified as the location of a third sub-base camp and construction will take place in 1984 for opening in 1985.

Fishing permits issued by the Band will stipulate that in any lake where sub-camps or outpost camps have been established, fishermen use these facilities unless they are travelling by non-motorized means.

## E. TIMBER

Some timber within the Area is suitable for building materials. Due to the distance from outside markets, there should be no conflict over its use and stands should therefore be identified and reserved for community use. The Sachigo Lake Area does not have forest fire protection nor any of the other forest related programs provided by the Ministry of Natural Resources. We are therefore not prepared to pay stumpage fees on any of the timber that we use.

The communities of Sachigo and Ponask are dependent on wood for heating. As the population of the communities rise, greater demand will be placed on the trees close to the communities. A policy will be developed to ensure that a constant supply of firewood remains within a reasonable distance from the communities.

## F. MINERAL RESOURCES

The Sachigo Lake Area has a high potential for mineral extraction. Major activity is at the present concentrated in the Lingman Lake Area where in 1946-48 the Lingman Lake Gold Mines, now known as Twin Gold Mines, put down a 3-compartment shaft to 430ft. Underground work then established 148,000 tons of material with a cut grade of 0.41 oz. gold per ton in the proven category, another 296,000 tons drill-indicated of similar grade, and a further 130,000 tons drill-indicated at 0.21 oz. (cut).

Since mid-February of this year approximately 410 claims have been recorded in the Red Lake District Mining Recorder office. Mark Smerchanski, President of Twin Gold has been reported in the Northern Miner as stating that they have several proposals to bring the Lingman Lake mine into production. Another company reported to be active in the area is Nearctic Resources Inc., which has acquired 49 unpatented claims and has staked an additional 260 unpatented claims adjacent to Twin Gold. Linecutting and geophysics is now in progress on the property, and a drill has been moved onto the site.

The Sachigo people have not received any benefit from this work and no jobs have been offered to them. It is proposed that a permit system be established that would require a company or individual engaged in any form of mineral activity within the Area to hire local people for any postions for which they are qualified.

#### F. MINERAL RESOURCES (continued)

No development of a mine should take place until the people from the area have been given full opportunity to examine the potential impacts of the development. We are not opposed to development if it takes our interests into account and all precautions are taken to protect the environment. We also want sufficient time in order to examine all avenues in which we may be able to participate.

#### G. ROADS

As previously stated, one of our concerns with the West Patricia Land Use Plan, is that it does not take into account the future development of roads. We are not prepared at this time to say whether or not we want an all weather road connection with the south, however, a corridor should be included in any land use plan for this purpose.

The road to Windigo Lake in the south follows the Agutua Moraine which also provides the logical extension to the Severn River at the east end of Sandy Lake. Once the Severn River has been crossed, the Sachigo Interlobal Moraine would provide the logical route for a road into Sachigo Lake. This route should be recognized in any regional plan.

A priority in the Sachigo Area plan is an all weather road connecting Sachigo Lake with Ponask and an all vehicle winter road connecting Sachigo with Red Sucker Lake and the winter road system of Manitoba.

#### H. INDIAN CONSERVATION OFFICER

The Tripartite Agreement on Fishing in Ontario provides for the appointment of Indian Conservation Officers who will be provided with all aspects of training customarily given by the Ministry of Natural Resources in respect to fishing.

It is proposed that this agreement be expanded so that the Indian Conservation Officer be trained in all aspects of conservation and once trained this person will be responsible for enforcing all regulations in the Sachigo Lake Area. The Indian Conservation Officer will be cross-appointed as a Band Conservation Officer.

The Band and the Ministry of Natural Resources will appoint a Liaison Committee to establish the needs of the Band in relationship to the assignment of the Conservation Officer.

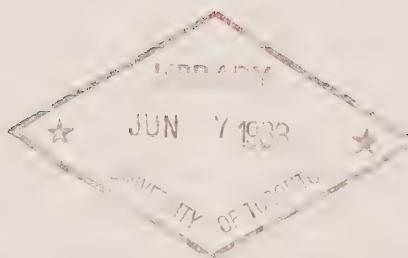
The Indian Conservation Officer will report to this Liaison Committee. Until the Conservation Officer is fully qualified, he will be paired with and will perform his duties with an Experienced Conservation Officer.



Rec'd May 9 1983



INTERIM REPORT FROM  
THE NATIVE COMMUNITY OF SAVANT LAKE  
TO  
THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT  
ON THE  
WEST PATRICIA LAND USE PLAN



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## Introduction

We, the native people of Savant Lake, Ontario, are one hundred and fifteen Status and Non-Status Indians, with the greatest majority being Status.

Savant Lake is located at the conjunction of the Canadian National Railroad line and highway 599, which goes north to Pickle Lake. We are forty miles east of Sioux Lookout, Ontario.

Directly through the middle of our village runs the Treaty Nine - Treaty Three boundary. This boundary follows the height-of-land dividing the English-Wabigoon and the Alabny river watersheds. We and our Ojibway ancestors have occupied this land, this area between the two watersheds, from time immemorial.

Between these two great watersheds ran a long portage seven miles in length, and over this portage the goods supplying the great trading houses were carried during the days of the fur trade, between the Lake Winnipeg system and the James Bay systems. Therefore the Ojibway name for our village is Kitche - Oniigamink, the Long Portage.

Although we like living on the height-of-land and have always lived here, the boundary made by the federal government between Treaty Nine and Treaty Three has caused us many problems. Although the government has applied the rule about the different treaty rights belonging to each treaty area, they have not given the people of Savant Lake the help which has been forthcoming to others, such as education, medical assistance, economic development, or the protection of our aboriginal right to pursue our culture, our economy, and our way of life.

The Status Indians of Savant Lake have their treaty numbers registered with at least four different reserves in three different treaty areas. There are some families registered with the Fort Hope, Cat Lake, and Onaburg Reserves on the Treaty Nine side of the line, and others registered with Wabigoon, Lac Seul and some of the now-extinguished Ignace Reserve who were transferred to Lac Seul, all of Treaty Three. There is even one family in our village registered with the Whitesands Band in the Robinson-Superior Treaty.

The Savant Lake people, no matter where the Treaty Commissioners said we belong, have always lived here. We have always lived by hunting,

trapping, fishing, and gathering. We have used the land to gather our living, to enjoy, and to bury our dead. This way of life has always been perfectly legal, until now, and has supported a thriving local economy. For most of those who come in from the outside, whether tourists who come to take fish and game for sport, or those who follow the extraction industries, this appears to be wilderness, and many of the lakes and rivers have English names. But for us, this land goes back into antiquity even beyond our legends, it contains our wealth and our world, every rock and tree in this area is known to us as others know the interior of thier houses. Each lake and river, rapids and portage, has its legend and story. We intend to protect it because we have no other place to go, and even if we did, we would not.

Because Savant Lake is an unorganized community, and an off-reserve Indian community, we have been ignored by both governments. This has not been a benign neglect. Our contact with the Provincial government has been only with the Ministry of Natural Resources, and then only when the game wardens lay charges against us for the --- to us --- new sorts of violations against the Fish and Game Act, and with the school. The school is run by the province, and, although it is 90% native children, teaches nothing in Ojibway, or about Ojibway culture or language. We have seen our local economy and traditions forced back again and again as the game animals dissapear and the lakes are polluted by run-off from clear cut areas and the heavy machinery. And yet the Ministry of Natural Resources insists on keep high quotas of fur harvest for trappers. We have no resident medical help, and no full-time social worker in an area where alcoholism and family breakdown are high. Our contacts with a government supposed to represent us has been almost entirely negative.

In addition, most of the native adults of decision-making age were left out of schooling altogether when they were young in the'fifties. At that time, the school in Savant Lake was for white children only. Indian children were to be sent to the residential school at Pelican Lake near Sioux Lookout. Since it was like a prison for most young people, no one wanted to go and most got out of it. Most of the decision-making adults of Savant Lake native community therefore find

gelves at a severe disadvantage when dealing with the bureaucracy of either government. They were taught neither to read and write in English, nor in Ojibway. So most cannot read or write in either language. It is perhaps his reason we have appeared to be silent for so long, and our requests demands never taken into account. In Savant Lake, we live on Crown Land and are therefore required to deal with the Ministry of Natural Resources every turn; whether we want to cut wood for fuel or housing, if we want licence to ~~build~~ build a trapline shack, if we wish to get a trapping licence, and if we cross the boundary while hunting moose, even though Treaty Nine -band trapper might be given a trapline on the Treaty Three lands. We have to get liscences for everything in our lives, and we cannot read the rules we have to obey. And no one has bothered to translate them for us, or explain. Often we do not know what the laws are until we are arrested or charged, and sometimes they contradict those rules we known in the past. Otherwise we hear about them by word of mouth from other members of the community. What other communities in Canada are forced to undergo this sort of trial-and-error? Or must have every aspect of their lives governed by the Ministry of Natural Resources? Very few.

We are now being asked to respond to the West Patricia Land Use Plan as it applies to the Savant Lake Area. We strongly object to the short amount of time we have been given to respond to this report. If it took the Ministry of Natural Resources twenty-five years to put this together, we should have more than nine weeks to reply to it. We cannot get the confusing language and arrangements of the report figured out quickly enough to translate it to the people in nine weeks, and keep in mind that all information here in this native community must go to adults by word of mouth almost in its entirety.

Furthermore, we object to the precipitate manner in which this report has been presented to us. We knew nothing about this report and options which has been in preparation for so long. The Ministry, in dealings with them, has never mentioned it once. We feel many of the assumptions on which the options are based are incorrect. The number of beaver houses have been overestimated by estimates made from the past, and the practice of leaving trees in clumps after a cutting, for instance, does not save the trees or animals. The isolated clumps die, when the animals. We feel much of the plans and options are based

#### 4./ Savant Lake Interim Report

on poor observation of the land, and a lack of knowledge of land-use by us, the people who live here, and therefore none of the options is sensible. We wish to have time to conduct a good land-use study and present a detailed report. As it is, the nine weeks have allowed us, in the main, merely to explain to people what this Land Use Plan is all about.

It is to be noted that this is an interim report only. Now that the people of Savant Lake have been made aware that this Land Use Plan is being considered, and that they should have a say in its application, we insist on the time and funding to put together a report on our own land use, our wishes, suggestions for alternatives, and suggestions for public participation on a local level in future planning.

Objectives of the interim report

) The wishes of the community of Savant Lake is to complete a land-use plan for all the families and extended families of the Savant Lake area, including Allanwater. This, with visual aids such as slides, maps, and tables will be presented as a final report with suggestions for alternatives to the West Patricia Land Use Plan and its options, as well as suggestions for public participation which will have been agreed upon by the entire community.

specifically;

- a.) make sure every decision-making adult in the community understands what is at stake, whether or not these options will go into effect, and how soon, and how much their participation counts or does not count
- b.) make sure the community understands the MNR's plans and options as outlined in the West Patricia Land Use Plan
- c.) prepare land-use studies which take into account not only hunting and trapping, but graveyards past and present, land to build houses on, and on which they are already built, berry-picking, cone-picking, recreation, fishing, cutting for fuel and cutting for buildings, present roads, and areas where land is blocked from usage by tree-planting and cutting
- d.) preparation of maps showing treaty boundaries and trapline boundaries, historical land usage, present land usage by extended families and maps showing where people live now and under what arrangement
- e.) take our questionnaire on land usage to each head of family and prepare from it graphs showing percentage of subsistence "income" and cash income obtained from the land for each family
- f.) a report showing present conflicts in land usage
- g.) presentation of sensible alternatives and plans for reserve areas and protected areas

f.) reduce these maps, charts and graphs to a slide presentation for easy demonstration, plus a slide presentation exhibiting our present way of life on the trapline and in the village.

2. What we have accomplished so far:

The project was to start on the 17th of September, but for one week the community could not locate a skilled project co-ordinator. Please keep in mind there is only one member of the Savant Lake community who is fluently bilingual in English and Ojibway and who writes accomplished English and is old enough to be a leader in the community.

A project co-ordinator was found the 21st of September. He worked until the 24th but the material sent by the Ministry of Natural Resources he found to be confusing and difficult, and left the project.

From September 27th until October 15th local workers Violet Michimitay and Gilbert Machimitay obtained maps from the MNR in Sioux Lookout ( a round trip of 120 miles) to demonstrate option zones in two community meetings, after they had gone through some of the material.

At this point the community leaders were advised to freeze the funds until a project co-ordinator could be found. Funds were frozen for two weeks.

On November 17th a project co-ordinator was found to help prepare the material for submission and begin the writing of the questionnaire, and to do some interviewing, and in general help direct the project. Due to time and confusion, only one option, Option D, was fully explained to the people. Problems of notifying people for meetings (there is no way to reach many of the people of the area except through word of mouth) were, as always, encountered.

What was done;

- a.) A questionnaire was written up for heads of families with a special section for full-time trappers
- b.) maps were obtained and option zone areas marked out and explained at meetings
- c.) map of the projected Savant Lake reserve, and projected areas of protection for fishing and hunting were drawn up
- d.) Interviews with some heads of families were conducted
- e.) this interim report was completed.
- f.) the translators grasped and understood the material sent by MNR
- g.) the community was made aware of the Land Use Plan

Present land use

Although the community does not at this point wish to be pushed into a hasty-prepared report which is incomplete and speculative, we wish to point out that the Ministry's plans as specified in Option D does not take account graveyards, traditional gathering sites, berry-picking or spicking, the subsistence hunting done by native people, subsistence fishing done by native people, and the need for housing for native people on Crown Land.

In regards to Crown Land, most of the people live on land which is leased from year to year, and those who do not have the money for leases who wish to live near their work (i.e., in the bush) are forced into a position of being squatters. Even then, they have no guarantee their land will not be taken away from them and destroyed by the Ministry.

Trappers spread out to their traplines in all directions from the village. While on the trapline, the trapper must hunt for the family. If a Treaty Three trapper is given a trapline across the boundary into Treaty Nine area, he will be arrested for hunting outside his treaty area. Thus rules and regulations have hampered land use for native people.

Present land use includes also recreation, such as summer camping going to gathering places as extended families. Traditional places of enjoyment for fishing and hunting include the old Hudson Bay post sites. Fishing is an important economic activity. We wish to draw up maps in our final report as to the lake trout lakes and areas which we feel should be protected, and which the Ministry has not designated as protected areas.

The three lodges and seven outpost camps noted in the Land Use Plan operating in this area do not support the 115 Treaty and non-Treaty Indian people in this area. They are not commercially important to us.

Our land use is being more and more restricted every year as the Ministry issues licences for more and more cutting and roads. We wish to point this out in our final report and so will not go any further than to note here except to note that the Ministry does not seem to take into account the desecration of the natural environment but cutting, by oil and heavy machinery killing beaver in the creeks, the erosion of soil through clear-cutting, and the miscounting of live beaver houses.

Another important use of the land is wood for fuel and for building houses. Estimates of each families' usage will be in the final report.

#### IV. Alternatives to the West Patricia Land Use Plan

We do not want to be forced into a reactive and defensive position by the short amount of time given to us to prepare and answer to the West Patricia Land Use Plan. We have no information as to how the Ministry will allow us into the decision-making process, and we want to be sure to have facts and figures to back up our alternatives. The community must further study these options and have them translated at well-attended meetings.

The people of Savant Lake want first of all to be heard. Because of our off-reserve position, and our community being unorganized, as well as problems we have encountered in relaying news and information throughout the community because of literacy problems, we need more time than we have been given.

In the report on "Land Use Activity for zone no. 65A and 65B" (option D), it is stated

The communities of Savant Lake and Allanwater are located in this area. There are three lodges and seven outpost camps in this zone. Existing activities include timber harvesting, mineral exploration,, sport fishing, wild rice harvesting, cottaging, Crown Land recreation and hunting...

However, it should be obvious by now merely from this interim report that actual subsistence hunting, trapping, fishing, and "gathering" occurs in this area and helps to support 115 people. That the "cottaging" is actually a matter of people trying to find places to put thier houses, if and when allowed. The report also states

Increased levels of activity in timber harvesting, trapping, wild rice harvesting and commercial fishing will be encouraged. Opportunities for conventional cottaging will be made available on Minchin Lake.

But the Ministry does not seem to have made any plans to resolve conflicts in timber harvesting and other activities, nor recognized the need for land where the residents can put houses. We cannot live in the tops of the trees, and yet leases and permits to build any house is hard to come by. Some of our people have been told to move a trailer and then not given a permit to put it any place else! The only alternative was to keep it where it was illegally or float it in the lake.

## Savant Lake Interim Report

We feel we have good and sensible alternatives to offer to the Royal Commission, and need time to develop them in a final report.

### Public Participation

We wish to understand what our community people want to say and then speak out to the Commission about our thoughts and desires. We demand our wishes be listened to and respect. The Ministry of Natural Resources supposed to act as a public servant and not as a self-contained group serving only its own aims and objectives.

The questionnaire we have prepared for our people will be administered their answers noted and recorded.

We are ready to participate in this process as soon as we are sure will be heard fairly, and when we have time to fully prepare and state alternatives, and our suggestions for public participation in the future.

### Conclusion

This interim report should remind the Commission that the Savant people have been forced to hastily translate the Ministry of Natural Resources' report to the people merely as a beginning of the process and then found very little time to begin a report to the Commission.

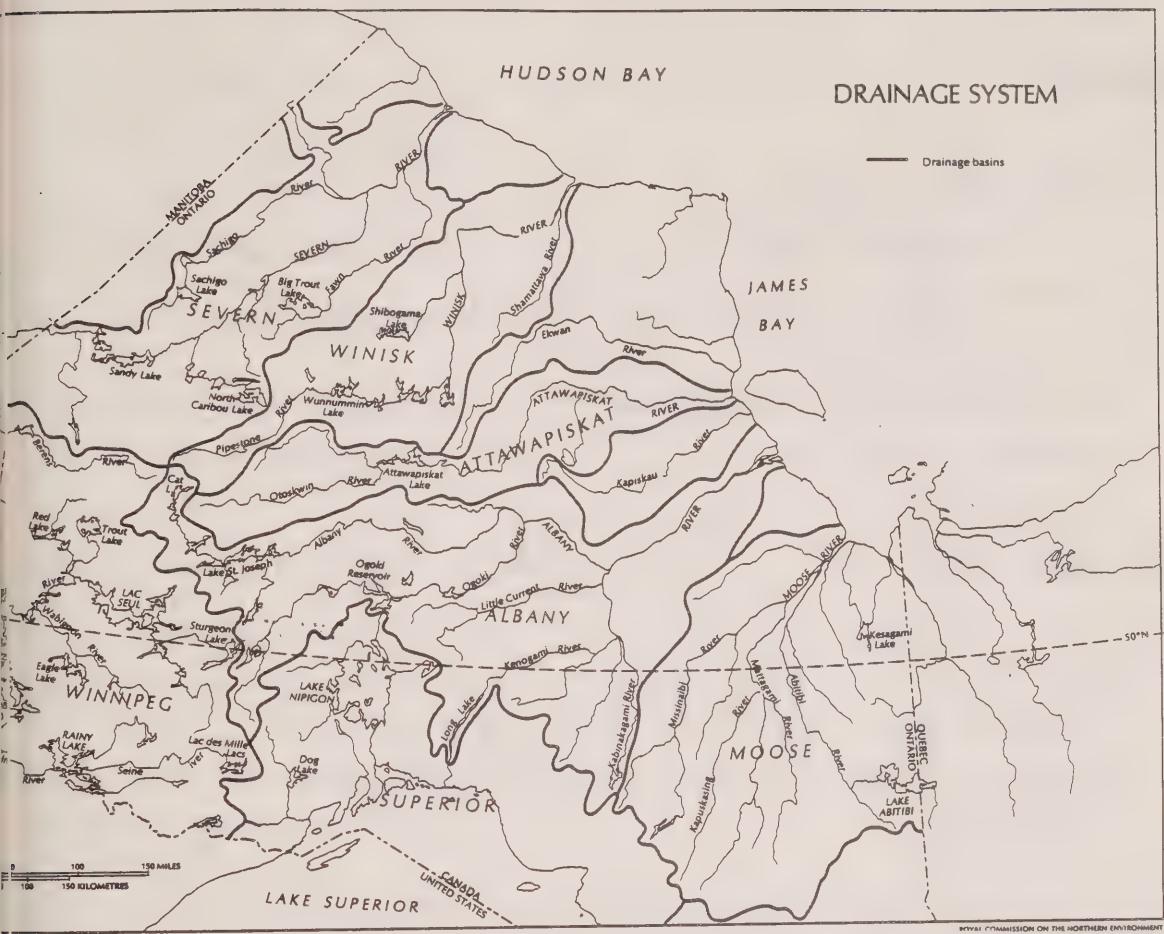
We demand the time and funding to complete a report as outlined above so that our voices can at last be heard. Because of lack of education in English language and the ways of mainstream society, we have been easily shoved aside and ignored. The Ministry of Natural Resources has been able to ignore our need for information on laws concerning fish, game, and rights to land use.

Over the years we have found ourselves being treated like unwanted foreigners

foreigners on land we have occupied for countless generations, and this not by an invasion of non-native people, for there are only 17 non-native people in Savant Lake; but by a ruling bureaucracy which now controls almost every aspect of our lives and requires us to be liscenced for almost every daily activity we undertake.

Although we have lived for centuries off the land, we now find ourselves being accused on one hand of taking too much (hunting) and on the other hand, not enough (increased beaver quotas). At the same time testimony from our hunters and trappers assures us they have seen animals and fish wasted by tourists. We have seen entire bodies of moose left with only the head taken, great amounts of fish taken over the limit and left to rot, and animals have even been taken our of our traps by meddlding tourists or logging machine operators from outside the area. We know many animals are wounded and left to wander off into the bush to die. With all thus suddenly occurring in the past twenty years, with no way offered us to take our objections and desires to the bureacracy which rules almost every aspect of our lives, we are losing a local economy which has always supported a sizeable community in this area. Therefore we request time and funding to do a truly complete report.

PLEASE NOTE: TREATY BOUNDARY FOLLOWS HEIGHT-OF-LAND



QUESTIONNAIRE

1.) What areas do you go to for

- a.) berry-picking in summer
- b.) cone-picking
- c.) woodcutting for fuel
- d.) woodcutting for building purposes
- e.) fishing/hunting
- f.) recreation?

Please mark on the map.

2.) Do you go alone, with friends, or with family?

- a.) if family, state how many family members and which ones
- b.) how long a period do you stay in the bush? Specify for each activity.

3.) Estimate the cash value of wild food you obtain in the bush

4.) estimate the cash value of fuel (woodcutting)

5.) Is wood your only source of heat?

6.) Do you have relatives buried in any of the specified graveyards?

7.) What are your other sources of cash income besides trapping and cone-picking?

8.) What jobs are available to you? (In Savant Lake)

9.) What are your skills in terms of getting a job in the area?

10.) Please point out on the map areas of

- a.) good hunting

Questionnaire

b.) good fishing (what types of fish and how taken)

c.) what areas you feel should be protected

1) For which of the above activities are you required to get a liscence?

2) What type of housing do you have? How many people live in the house?

3) What type of lease arrangements are you living under? Did you have any problems getting the lease?

4) Are you aware of the West Patricia Land Use Plan?

5) How will the policies in the West Patricia Land Use Plan affect your use of the land as specified above?

6) What do you think a land use policy for this area should be? Touch on all the above economic areas.

7) How can you participate in the decision-making process? How do you think participation can be accomplished?

8) What means should be used to make sure that your views are included in policy decisions?

Savant Lake, Ontario  
May 2, 1983.

Royal Commission  
Thunder Bay, Ontario

To whom it may concern:

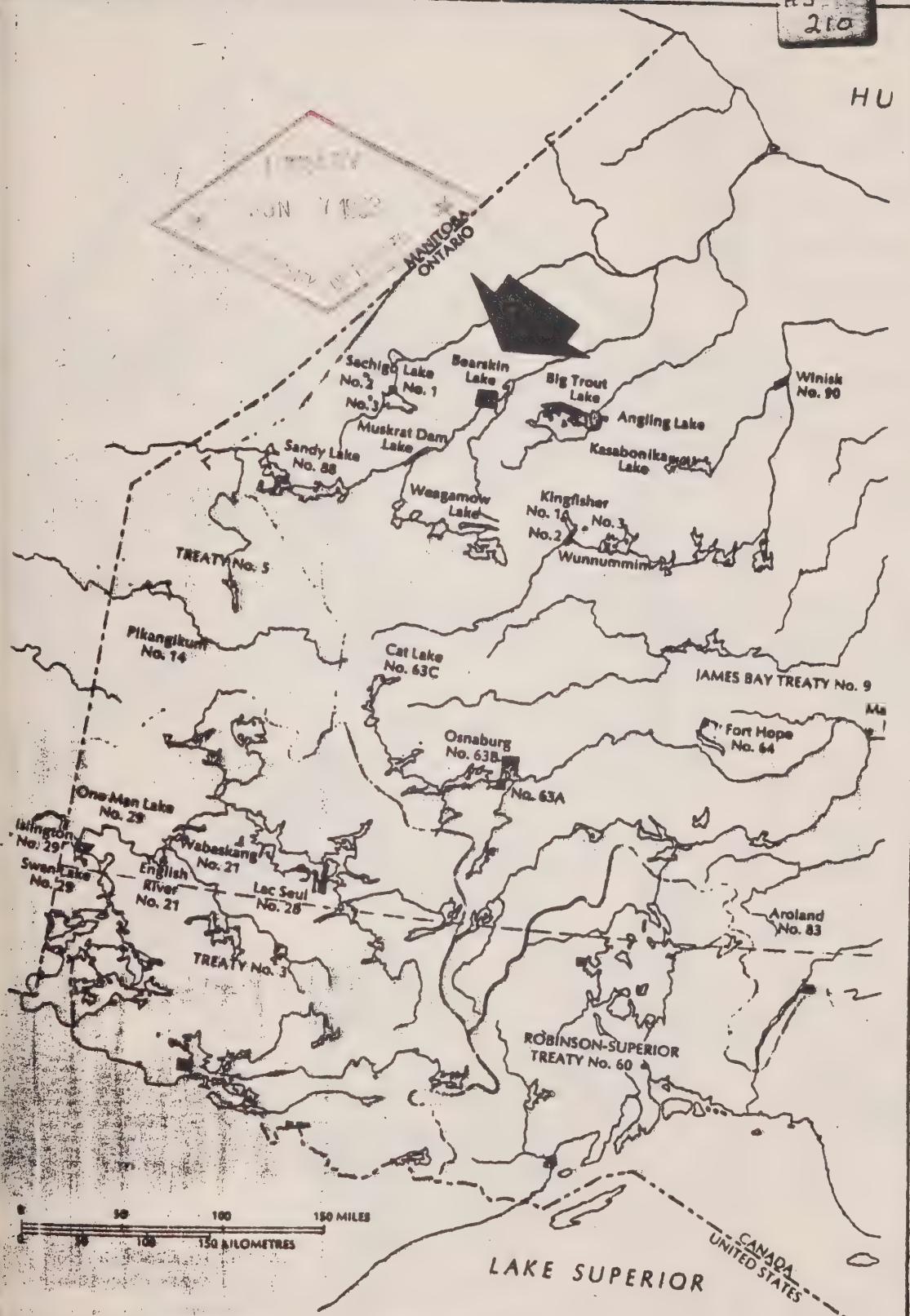
Please note at the introduction where it says one hundred and fifteen Status and Non-status Indians, with the majority being Status.

There is approximately one hundred and fifteen Status Indians, not including the Non-status.

We also represent Allamivater, but which makes the number of Indians greater than the above number of both Status and Non-status Indians in Savant Lake, at the present time.

Sincerely,  
E. Machimiy

FIGURE 1

HS  
210

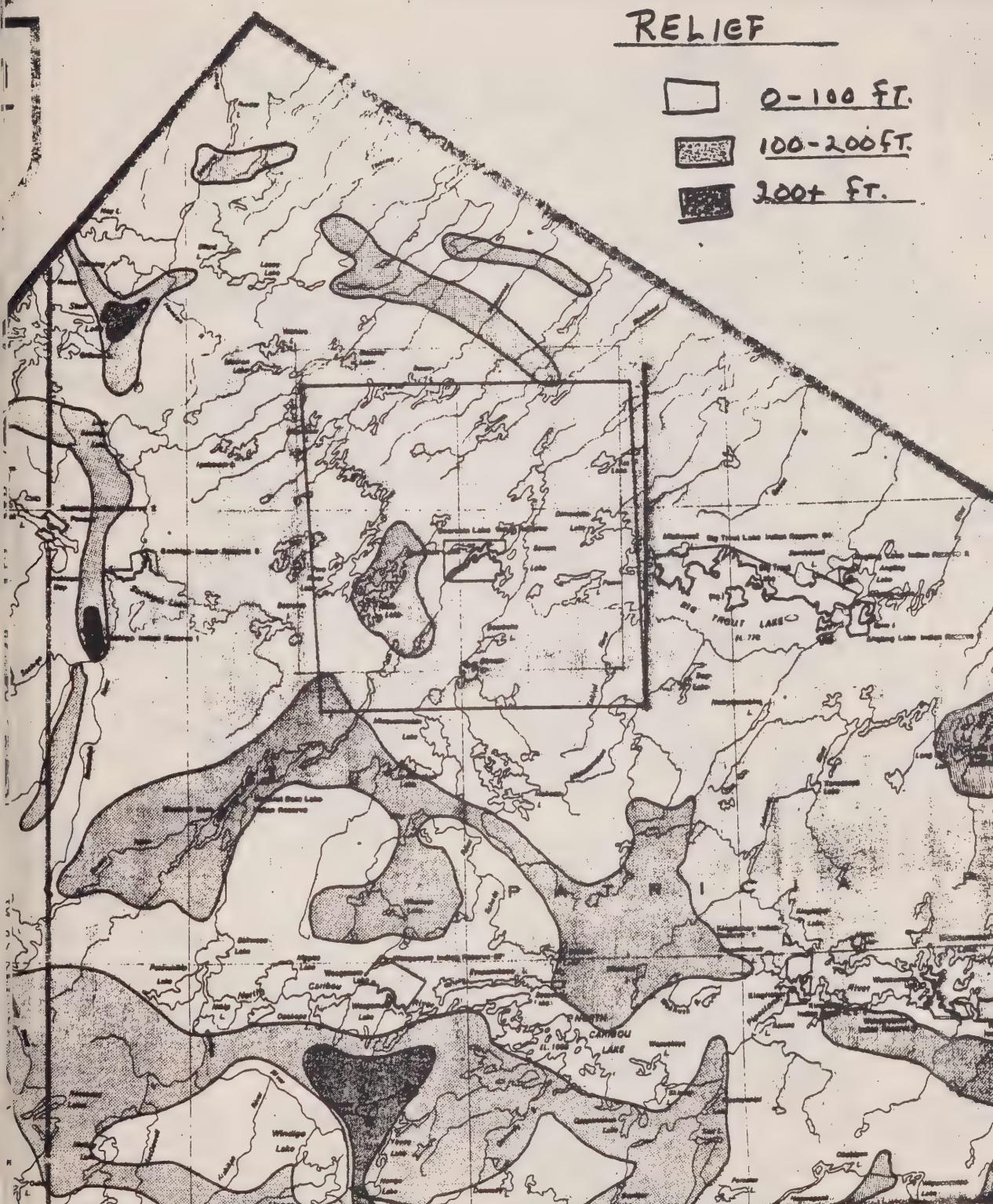
LOCATION MAP

## INTRODUCTION

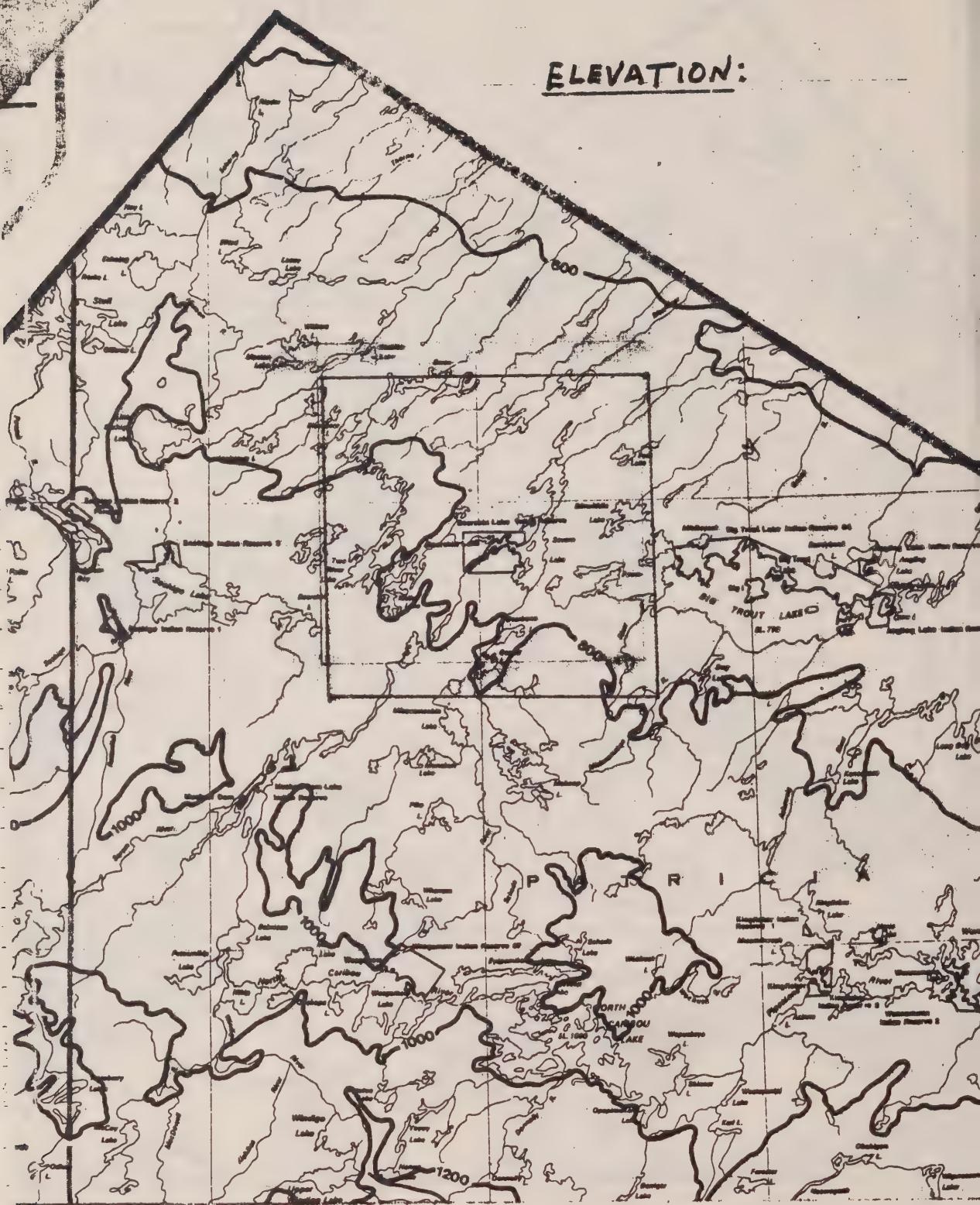
For this presentation I have chosen a 50 mile block surrounding the community of Bearskin Lake, covering a total area of 2,500 sq. miles. Within this area the reserve of 51&1/2 square miles is located. In this area a group of people carry on their respective livelihoods.

## RELIEF

-  0-100 FT.
-  100-200 FT.
-  200+ FT.



ELEVATION:



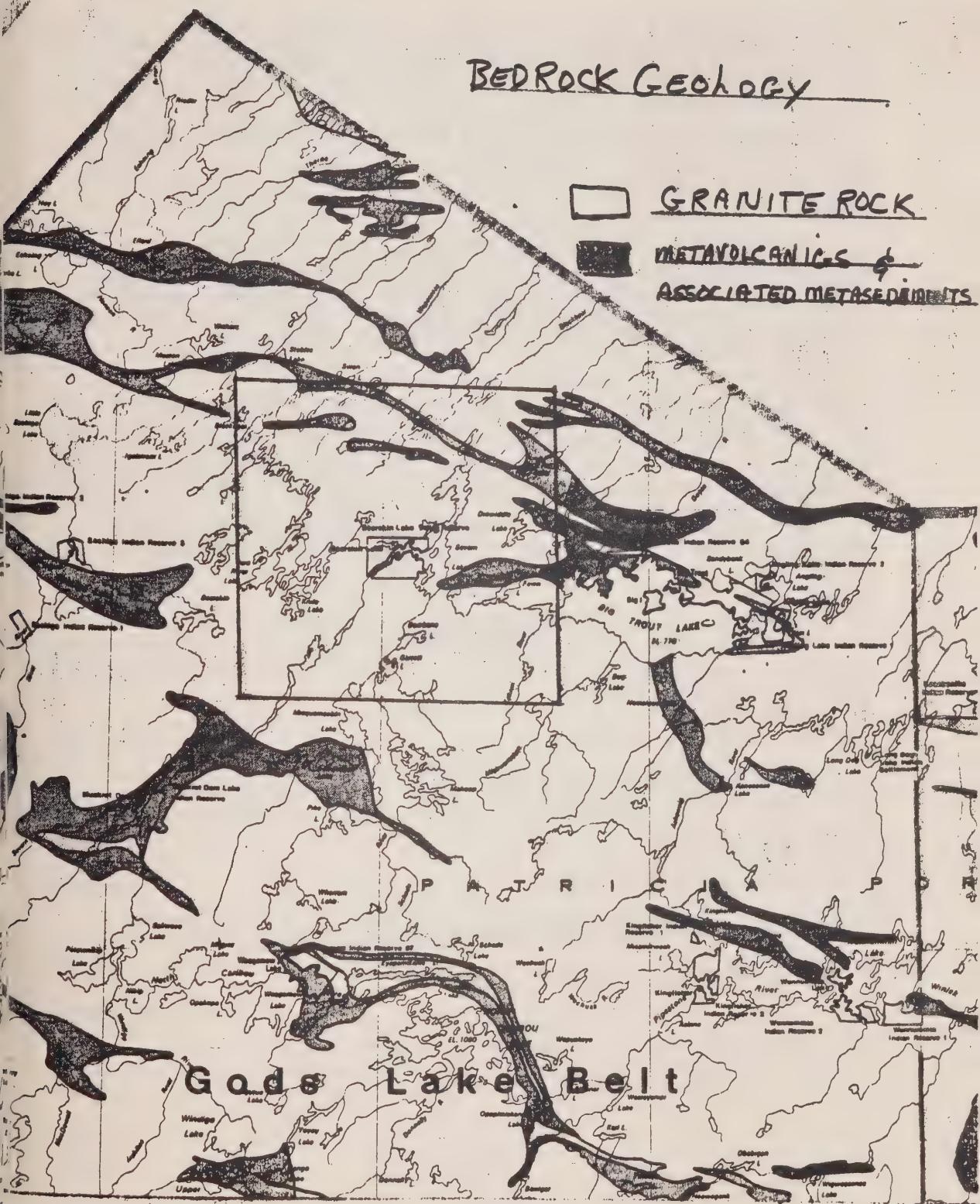
## BEDROCK GEOLOGY



GRANITE ROCK



METAVOLCANICS &  
ASSOCIATED METASEDIMENTS



The Bearskin Lake Reserve is a Cree-speaking community with an approximate population of 300 people, located 450 km. from Sioux Lookout by air. The Band took its name from the actual Bearskin Lake from which the group relocated approximately 30 years ago. The settlement was officially designated a reserve in 1976. Prior to this time, it was considered a satellite of the Big Trout Lake Reserve, which is 72 air kms. to the east. Big Trout Lake still functions as a service centre for Bearskin Lake and air charters are available through the locally based Bearskin Lake Air and Big Trout Air Services.

The reserve is located within the physographic region known as the Hudson Bay Lowlands. The region is typified by sedimentary bedrock over lain by marine clay and beach sand deposits, immense areas of swamp, and bog and muskeg. The prevalent forest of the muskeg areas support forests of white spruce balsam fir, trembling asper, balsam poplar and white birch.

The climate of Northwestern Ontario has been defined a Modified Continental, which means that most of the air masses and weather systems which affect the region, originate over the vast land masses surrounding the region. The average daily temperature for the area is 3.1 degrees Celsius, compared to a figure of 1.2 for Sioux Lookout. In January the mean daily temperature in the area is -29 degrees Celsius.

The growing season is short throughout the region. The mean annual frost free period is 100 days, and the mean annual length of growing season is 131 days.

#### General Data

First Frost - September 15

Last Frost - Late May

First permanent ice - October 31

Complete freeze-up - November 15

First deterioration of ice - May 7

Water clear of ice - May 29

Annual snowfall - 212.4 cm.

Annual rainfall - 394.0 cm.

Total precipitation - 597.3 cm.

Predominantly W-N.W. winds with annual average of 9.2 MPH.

Annual average of 4491.7 hours of day-light.

The area around the community is dominated by scrub brush, yellow poplar, black spruce and silver birch. The surrounding area is grassy as extensive clearing for firewood has occurred and has caused poor drainage and lack of a wind break has increased the wind chill factor.

There are several areas of muskeg which obviously severely hinder development.

The most abundant species of wild life on the reserve are beaver, muskrat, mink, squirrel and rabbit. Other species present, include otter, fox, wolf, weasel, moose and caribou. The most prevalent fish in the adjacent waterways are whitefish, pickerel, pike and sucker. Mallard and teal ducks are common and the marshy areas act as breeding grounds. Many types of birds inhabit the area, including geese, partridge, grouse, spruce hen and ptarmigan. The residents often hunt and fish and locally obtained game is an important part of their diet. A significantly amount of trapping of fur-bearing animals is carried out.

Since the ground is highly frost susceptible, the houses must either have,

- a) foundations that extend to bedrock which is anywhere from 3 to 10 feet below the existing ground surface,
- b) adequate drainage for the foundations,
- c) windows and door installed to accommodate movement or foundations that will accommodate movement.

#### Residential:

The main settlement consists of approximately 70 houses, surrounding a core area where most community facilities are located. Fifteen houses are located across the lake from the main settlement.

#### Health Facilities:

A clinic is maintained by the Department of National Health & Welfare and a visiting nurse services the facility at regular intervals. Hospital services are available at the Sioux Lookout Zone Hospital.

#### School:

A new school was constructed in 1972 and recent additions have been made. The building accommodates kindergarten through Grade 8.

#### Commercial Outlets:

Commercial outlets include Hudson's Bay Company, a variety store and a Co-op store. The cost of goods are relatively high and a major priority of the Band is to cut down on the freight costs in the near future.

Electricity:

Diesel generators provide electricity for the school, teacher/principal residences, Band office, Coffee-shop, stores, clinic, and school pumphouse.

However, it is anticipated that both the north and south segments of the community will be provided with electricity in the very near future.

Communications:

Bell Canada installed a microwave tower in December 3, 1977, and telephone service is available to all residents.

A local F.M. radio station was initiated and presently operating in the community. The Wa-Wa-Tay newspaper is received monthly from Sioux Lookout, and Winnipeg papers are periodically available.

Economy:

The economy of the community is generally dependent on direct or indirect government transfers and on such non-industrial activities as hunting, fishing and trapping. There are few opportunities for employment in the community. The only permanent positions available are clerical work, Band Office employment, school employment, nursing station aids, coffee shop staff and retail outlet staff.

\* \* \* \* \*

### Trapping

Fur trapping is one of the oldest economic activities carried out in the community. Before the fur-trade was established in the 1600's, the harvesting of fur bearers was necessary to satisfy the needs for food and clothing.

With the establishment of the fur-trade, posts and a network of trade routes were necessary to ensure fur export to Europe.

In 1977, Ontario trappers harvested 850,000 animals and sold the pelts for 12.5 million dollars. This represents income to trappers, but the economic value of the resources is much farther reaching. Most of the furs are sold to American and European buyers. The money received for these pelts is new money to the province, that helps offset some of the cost of our imported goods.

Trapping also provides revenue for the Ontario government. Each year the government receives about \$350,000 from Trapping Licences and royal ties. This money indirectly pays for some of the cost of administering the fur management program.

The meat of some of the fur-bearing animals are very valuable to trappers. More than 1&1/4 million kgs. of furbearer meat is used annually—a value of about 4 million dollars.

Income derived from trapping varies widely from trapper to trapper, from no income to over \$10,000.00/yr., as there are many influences in the trapping income, such as, trapper effort, trapline productivity, care in handling of furs, fur prices and employment opportunities. Due to the wide range of incomes, an average is used for this presentation.

#### Overall Averages ----- 1976 to 1981

Beaver-----	\$27.70
Mink-----	16.85
Martin-----	23.33
Otter-----	76.90
Fisher-----	123.61
Lynx-----	285.45
Muskrat-----	5.87
Colour Fox-----	44.27

Annual average prices indicated 1978-79, fur prices were extremely high.

As an example of trapper income fluctuations, using the high average prices for 1978-79, for areas,  
(291, 295, 296, 297, 298, 330, 331, 334, 335, 336) ten areas.

Total income was \$91,309.79.

The same areas and using the average annual income for 1979-80, the total income was \$131,689.97.

As an indication of the accuracy of these figures a "community profile" prepared in 1980, states there were 56 trappers on 17 traplines with an annual harvest production of approximately \$130,000.00.

As a traditional way of life and as a potential source of income, trapping is one of the stabilizing influences for the economy of the community.

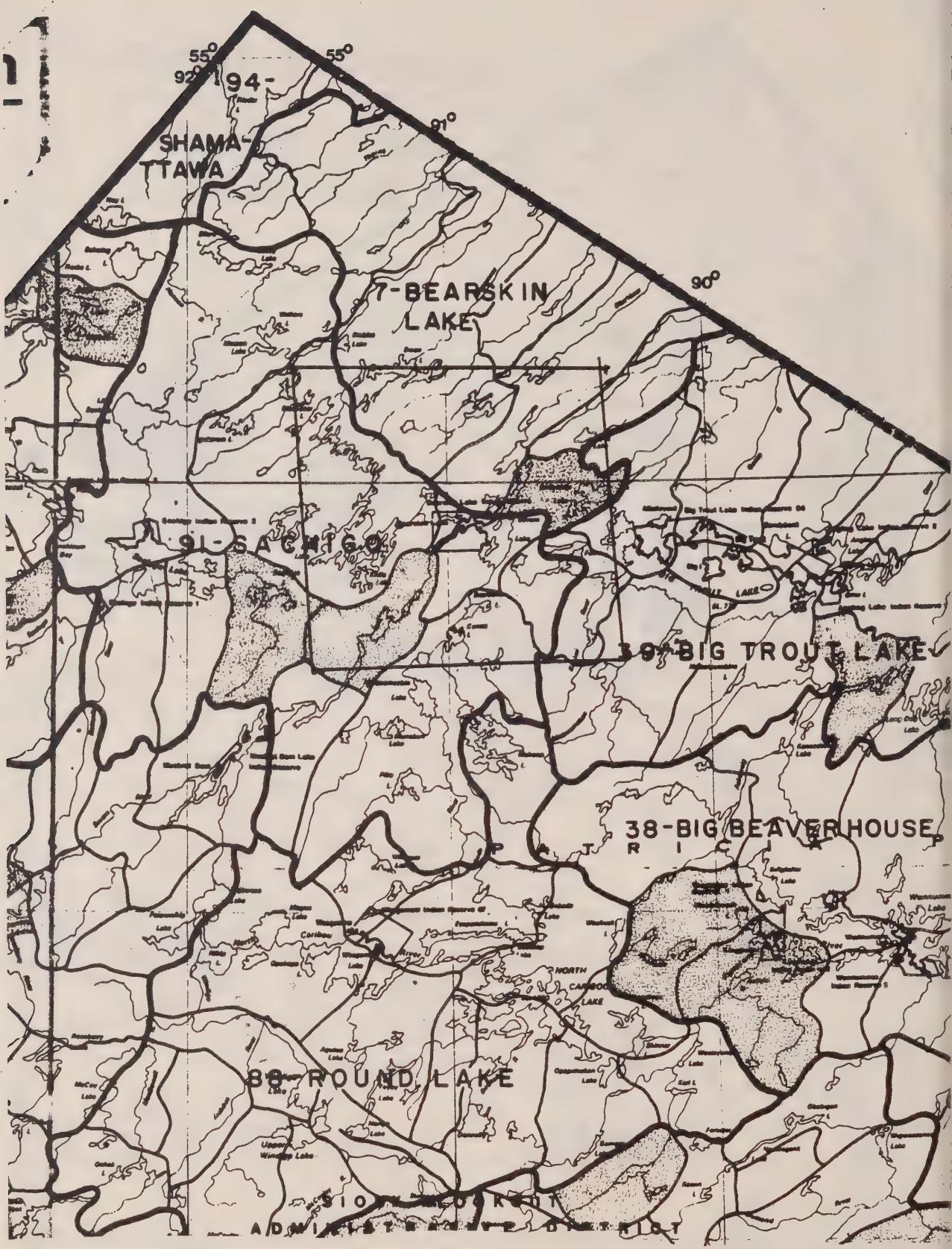
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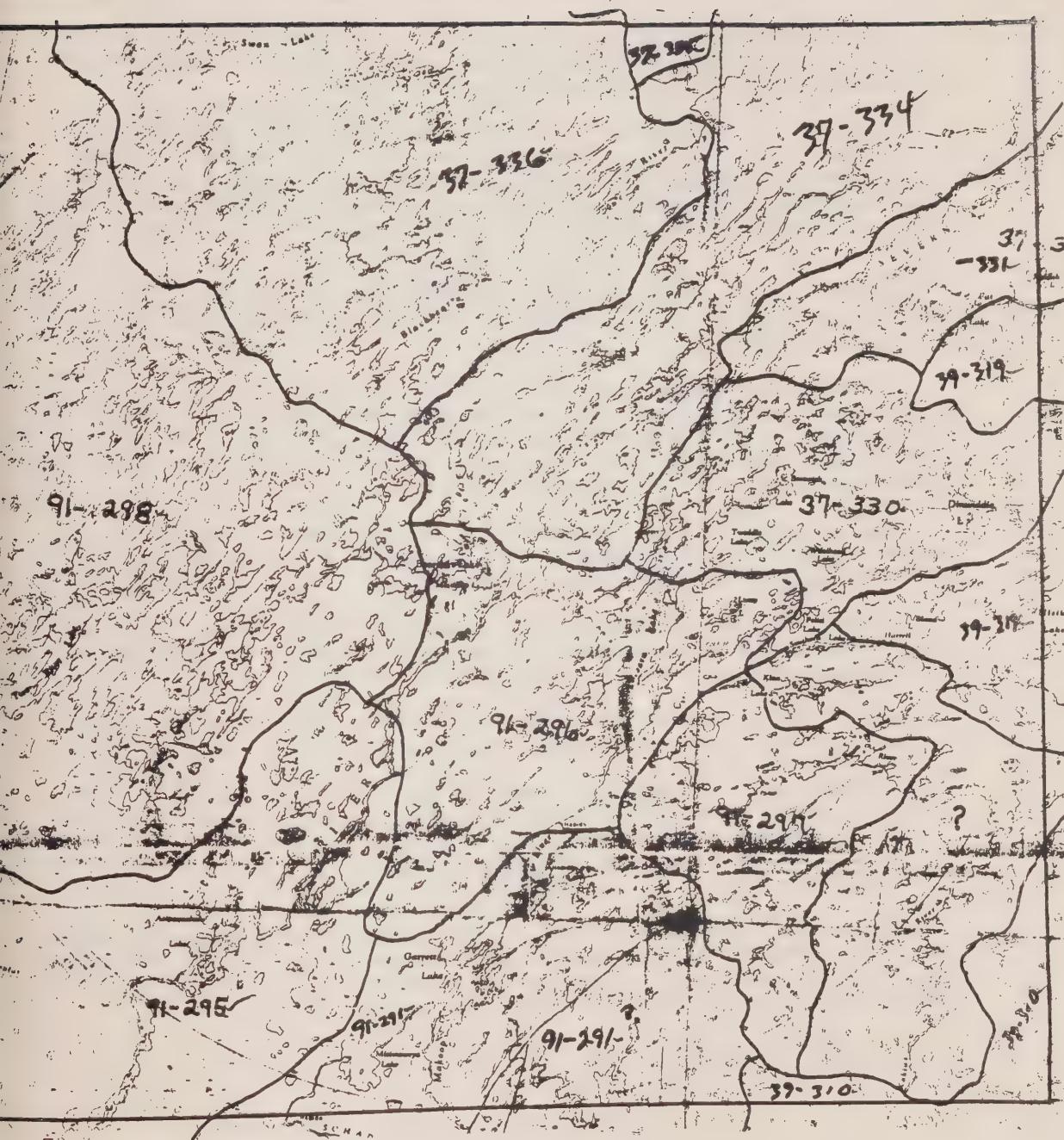
## MORAINES & ESKERS.

## MORAINES

## ESKERS

Saehigo Intermediate Moraine





### Commercial Fishing

Similar to commercial furs, commercial fisheries became a means of income for the Indian people during the 1700's when the Hudson's Bay Posts had to be provided with fresh fish during the winter months.

Fish were not transported for any great distances until the 1930's when Air transportation became a viable form of transport for sturgeon, the principal commercial species at that time. Low prices for other species hindered expansion of the commercial fish harvesting industry until the late 1940's when it became profitable to fish for walleye pickerel, whitefish and northern pike.

Higher prices, firm markets and increased capital investment assisted in the rapid expansion of the industry to include most of the larger lakes in northern Ontario.

In 1958, the Federal Department of Indian Affairs began to actively promote and support Indian Fisheries as an individual basis. At that time licences were issued to the individual Bands. Since the 1960's, the commercial fishing industry has been an important source of employment to the native communities, one of which is Bearskin Lake.

Low prices and fluctuating markets resulted in the establishment of the Freshwater Marketing Corporation in 1969, to control and stabilize fish buying and marketing throughout Western Canada.

However, in the early 1970's, the commercial fishing industry declined slightly due to low market prices, employment opportunities in other sectors of the economy and high mercury levels in fresh fish.

Due to assistance from the Department of Indian Affairs in the late 1970's, the commercial fish industry stabilized slightly.

The only type of commercial harvesting done around the community are small fishing operations, consisting of a fish camp and packing shed with ice.

As the map indicates, the community of Bearskin Lake lies within a high production area.

Within the Sioux Lookout district, for 8 Indian Bands, commercial fishing is an important part of their economy. On the average, 50% of the annual production can be traced to these Bands. Within these Band fisheries, Bearskin Lake runs second in the overall production.

The largest problem for the fisheries is the high cost of air freight, which can turn profits into loss.

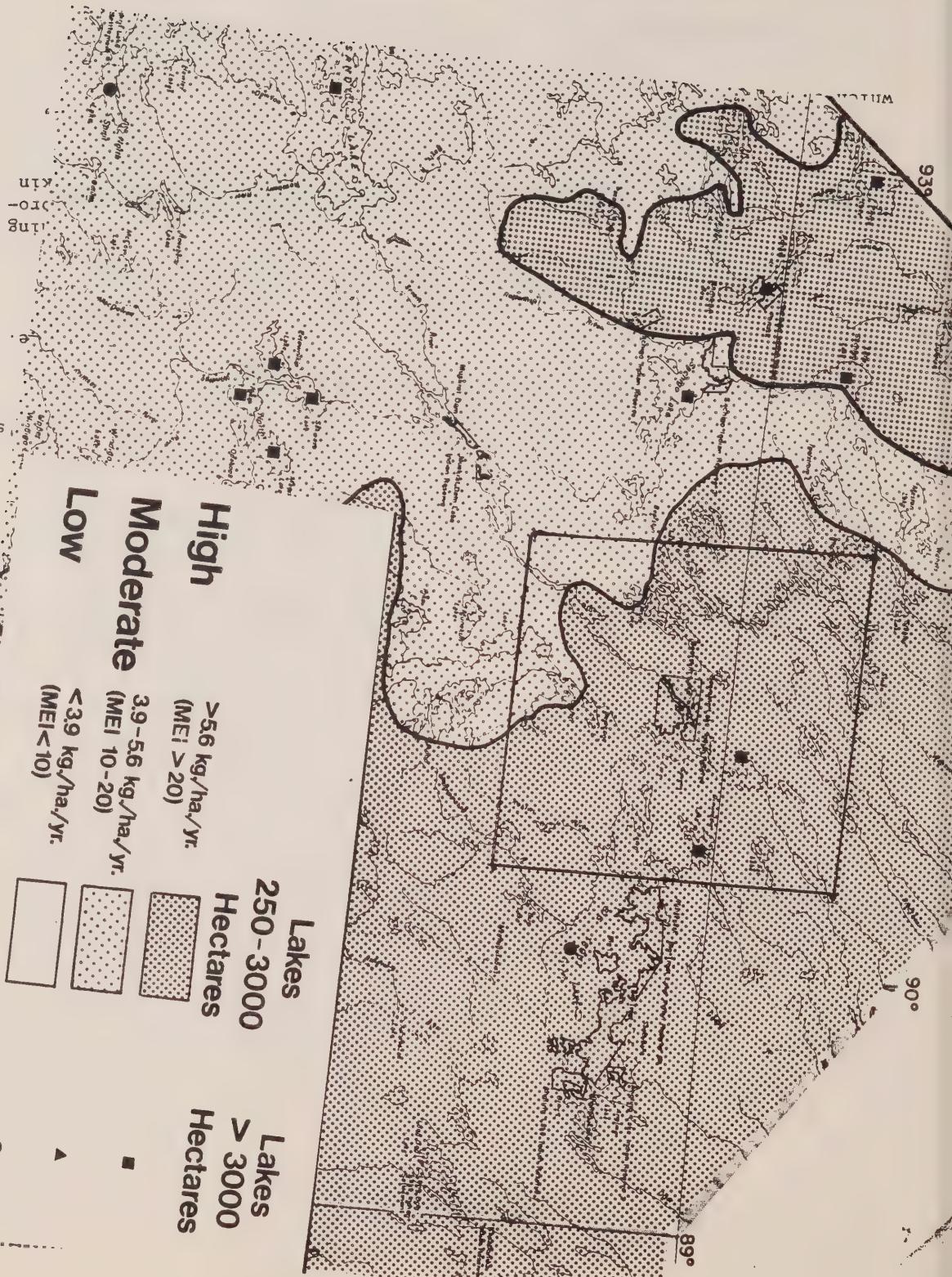
However, the government provides assistance in the form of freight equalization payments which helps to alleviate the problem somewhat. Using average figures as an example;

<u>Market Price</u>		<u>Freight Equalization</u>
Walleye --- \$1.32/kg.	-----	\$ .20/kg.
Whitefish--- \$ .58/kg.	-----	\$ .07/kg.
Northern Pike---\$ .36/kg.	-----	\$ .05/kg.

Another method incorporated by the fisheries is "back haul", which means goods and freight shipped in for local stores, and the fishermen only pay for the shipment of their products to the receiving plants.

With the high rise of unemployment in the community, the fishing industry may be one of the major income potentials in the future.

\* \* \* \* \*



### Forestry

The forest surrounding the community consists of two categories. The Northern Coniferous and Hudson's Bay lowlands.

The Northern Coniferous constitutes part of land, with black spruce dominating and jackpine in the uplands and tamarack in the poorly drained lowlands.

The Hudson's Bay lowlands constitute the other part of the land, with areas of swamp bog and muskeg. The prevalent forest is stunted open growth of black spruce and tamarack. Along river banks where better drainage occurs, are forests of white spruce, balsam fir, trembling aspen, balsam poplar, and white birch.

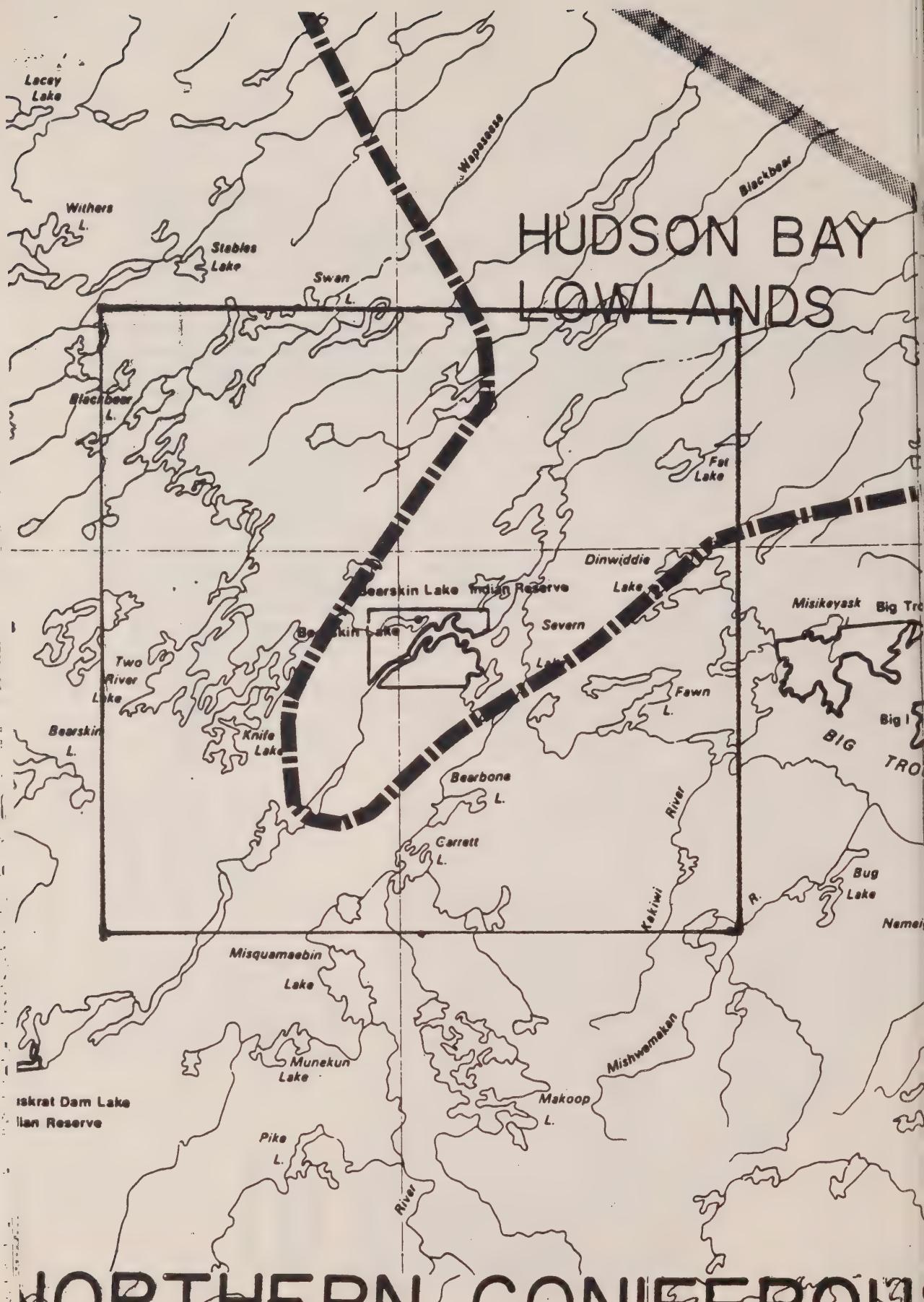
Before 1945, the only logging carried on was cabin building for trap-lines and hunting areas. Most of the cabins were roughly 14" x 16", used for families during the coldest part of the winter and the logging was very selective.

With the formation of reserves and communities, the need for more and more lumber was apparent and during the past two decades a semi-portable sawmill has been established to produce lumber as it's required by the growth of the community. The rough lumber produced is for minor repairs to buildings, construction of such facilities as sheds, docks and snow-sleds. For the lumber production, the main sources are white spruce and jackpines.

Presently, the Board proposes to establish a new sawmill operation on the Severn river, about 25 km. north of the settlement. It is envisaged that such an operation could supply lumber for local needs and employ 6 or 7 persons for several months of the year.

\* \* \* \* \*

# HUDSON BAY LOWLANDS



NORTHERN CONNECTION

### Tourism

Presently, there are no tourist establishments situated near the community of Bearskin Lake. However, the potentials for a profitable industry are available and at this time unlimited.

The need for an economy stimulant for the community, may very well be, the establishment of tourism.

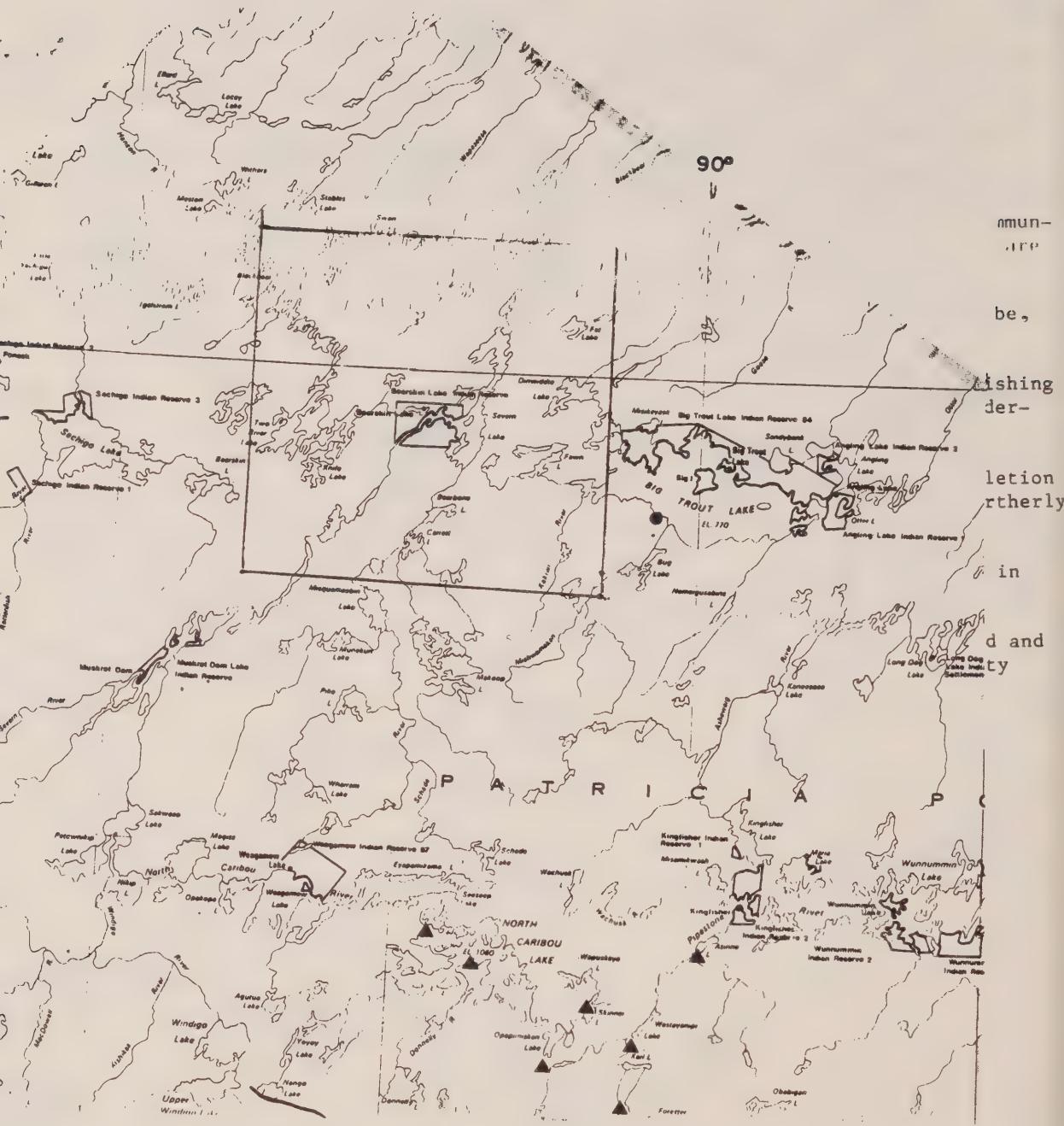
The major attraction of the area is the high quality hunting and fishing opportunities which are available in the relatively undisturbed or "wilderness" atmosphere of the land.

In the south conflicts of land uses and to a certain degree depletion of natural resources, may cause tourists to start looking in a more northerly direction.

In the near future the community may utilize this source of income in order to offset some of the high unemployment rate.

The community has potential families with the knowledge of the land and expertise in business management to establish profitable and high quality attractions.

\* \* \* \* \*



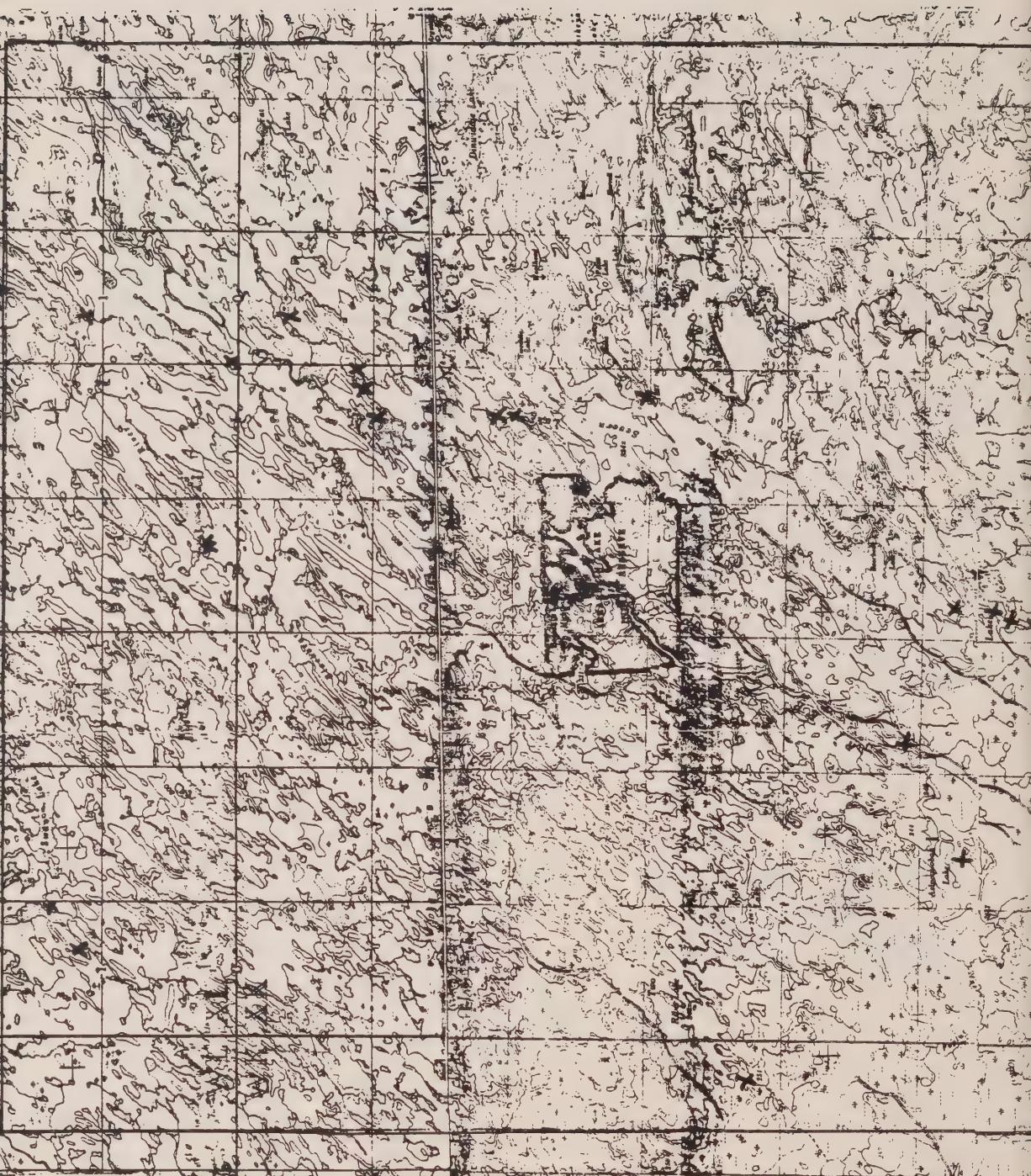
### Burial Grounds

During the time of intensive fur trades(after the 1600's ), individual family groups had their own respective trapping and hunting areas and due to lack of transportational means during freeze-up, extreme cold weather(January) and break-up, families had to bury thier dead in different parts of their trap-lines, as the accompanying map will indicate.

As part of the Canadian Heritage, we as Ontarioan's, should be proud and show respect for this tradition. Not only Indian people were in this situation, but people from other countries who came to settle on this land.

The community of Bearskin Lake is one of many communities situated beside one of the major waterways of Ontario, namely the Severn River, and any major developments taking place on this river should be planned with all the people dependant on the main river and its tributaries involved.

\* \* \* \* \*



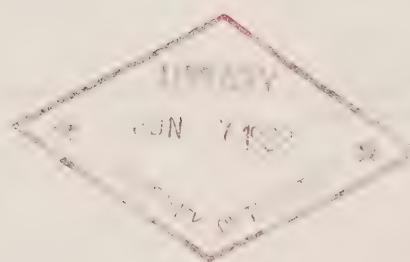
## RECOMMENDATIONS

- Lack of communication between R.C.N.E. and community has resulted in the lack of effective participation. This has to be rectified before comprehensive land use plans can be accomplished.
- Lack of proper time frame for financial assistance has resulted in lack of even a preliminary concept of a land use plan at a community level.
  - Date of original proposal, August 19, 1982
  - Date of financial assistance, October 15, 1982
  - Date of deadline, November 7, 1982.
- Lack of comprehension of people in regards to M.N.R.'s Land Use Plan has resulted in a total rejection by the community.
- Potential mineral resources on traplines will have to be researched to the satisfaction of the people.
- Future developments will have to be planned with the people involved.
- Any plans for the main river of the community(Severn River) will have to be carried out by the people who are dependant upon it for their livelihoods and traditional land and water uses.
- With more time to financial assistance each community would be able to produce a land use plan which would reflect the consistant and continual use of the traditional lands by the Indians.
- With wise land management and resource development plans, people from all parts of this land will be able to enjoy and benefit from our abundant resources.
- The R.C.N.E. should recommend that the government provide funds for a comprehensive long-term land use study.





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-1000  
SUBMISSION OF THE MINISTRY OF HEALTH  
TO THE  
ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT



APRIL, 1983

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## I. INTRODUCTION

This paper provides an overview of the health services available for residents of northern Ontario north of the 50th parallel within the context of the overall provincial health system and the responsibilities of the Ministry of Health.

The paper is divided into a number of sections. Section II, immediately following this introduction, lists the major responsibilities of the Ministry of Health in relation to the provincial health system and indicates the role of the Ministry in shaping the system. Section III describes briefly the federal and provincial responsibilities for the health services of registered Indians. Section IV provides detail on the health services available for residents living north of the 50th parallel.

## II. THE MINISTRY OF HEALTH AND THE PROVINCIAL HEALTH SYSTEM

### Ministry of Health Responsibilities

The Ministry of Health has a number of responsibilities with respect to the provincial health system. The following are particularly relevant:\*

- a) To advise the Government in respect of the health of the people of Ontario;
- b) To oversee and promote the health and the physical and mental well-being of the people of Ontario;
- c) To be responsible for the development, coordination and maintenance of comprehensive health services and a balanced and integrated system of hospitals, extended care facilities, nursing homes, laboratories, ambulances and other health facilities in Ontario;
- d) To administer the Ontario Health Insurance Plan.

Attachment 1 shows the Ministry organization structure and describes briefly the major responsibilities.

### The Provincial Health System

The provincial health system consists of a variety of public, private and voluntary organizations and individual practitioners. It encompasses services for those in hospitals and other institutions and for those who are in ambulatory settings such as the physician's office. It includes services for diagnosis, treatment and rehabilitation, promotion and maintenance of good health and the prevention of disease and disability.

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\* a), b), and c) - The Ministry of Health Act 1972;  
d) - The Health Insurance Act, 1972.

Delivery agencies, for example, hospitals, public health units, and nursing homes have different types of governing bodies and relate to the Ministry in different ways. These are illustrated in Attachment 2.

#### Development of Provincial Responsibility for Health Services

During the past two decades there have been significant changes in the health system in Ontario. The introduction of the Provincial Hospital Insurance Plan in 1959 relieved provincial residents of the costs of hospital care. During the 1960s, expansion of the system of hospital grants and loans by the provincial government enabled the development and expansion of hospitals throughout the province. In the mid 1960s, the system of insurance benefits was expanded to include physicians' services. In 1972, the hospital and medical insurance plans were combined as the Ontario Health Insurance Plan (OHIP); this made physicians as well as hospital benefits available to all residents, increased premium assistance to those in need, and exempted those over 65 from premiums. Benefits were expanded progressively to include care in the patient's home under the Home Care Program as an alternative to care in acute hospitals, and care in nursing homes for those who qualify for care under the Extended Care Program. In 1974, those over 65 and others receiving social assistance were further aided by the Drug Benefit Program.

Recently, other benefits were added: financial assistance for the purchase of selected assistive devices for disabled children and young adults; air ambulance services; chronic home care services. It is our intention to provide a homemaker program on a limited basis in the home as an alternative to institutionalization.

Benefits under the Plan are listed in Attachment 3, and the insurance premium structure in Attachment 4.

#### Federal Provincial Funding Arrangements

The funding of the insurance program has also changed since the plans were introduced. Ontario's insurance plan was initially and continues to be financed by a blend of premiums and general tax revenues. With the introduction of hospital insurance and medical care legislation, the federal government had committed itself to sharing in approximately half of the costs of defined "insured services". As spending on health care grew, Ottawa became increasingly concerned about the open-ended nature of the cost sharing arrangements, and attempted to introduce a number of proposals that would have seen growth in their contribution no longer tied to actual provincial spending. Provinces resisted such suggestions arguing that since federal cost sharing arrangements had forced them into spending in the high cost areas of health care, they needed both increased flexibility and expanded funding to build a health care system which would display controlled growth.

The solution to these often conflicting concerns was the established programs financing arrangement (EPF) of 1977. The EPF agreement ended strict federal conditions and cost sharing and implemented a tax transfer and a block funding mechanism to finance health care. Under this arrangement, the federal government agreed to transfer tax room to the provinces, plus the equivalent in a cash payment increased annually through a GNP related escalator. In addition, the federal government offered to provide a per capita payment as its contribution towards "extended health care services". The

federal government achieved its objective of limiting provincial transfers to the growth of the economy. For the provinces, the advent of block funding allowed flexibility to determine their own spending priorities and to experiment in more efficient ways of providing services. EPF was an important step in resolving existing financing problems and gave due recognition to the primacy of the provincial role in dealing with health matters.

#### Proposed Canada Health Act

In November, 1981, the federal government proposed in its budget that the national standards for health care be clarified and that a mechanism to ensure their maintenance be developed. The federal government stated that it would develop this mechanism in consultation with the provinces and when incorporated in new legislation - "the Canada Health Act" - by March, 1983.

In May, 1982, the federal Minister of National Health and Welfare outlined the federal proposal on national standards for insured health care and for the new health act. Since May, the federal government and the provinces have been engaged in negotiations over the proposed Canada Health Act and discussions are still continuing.

#### Increased Emphasis on Shaping the System

Within the last number of years, the Ministry's emphasis has shifted from a process of planning and funding of growth to one of control of expenditures and concern with the level of service. It has been necessary to combine a humanistic concern for one of the fundamental human services of government with an overall managerial responsibility for one of the largest industries in the province. The Ministry's total budget exceeds \$6.5 billion - about 29% of the total provincial budget. The Ministry pays the major proportion of hospital capital costs, it meets public hospital operating costs, pays for the services provided in mental hospitals, for insured provincial residents in extended care facilities (nursing homes) or under the Home Care Program, and for ambulance services. It also provides for a large portion of operating costs of public health units. In addition, it pays for most services of physicians and certain other health practitioners.

The Ministry must be financially accountable for the way these monies are spent. It must be responsible for the development of a balanced and integrated system of health services and facilities throughout the province. It must try to ensure the equitable distribution of services having regard for geographic and demographic realities and the differing needs from area to area in the province. All types of services, of course, cannot be made available in all communities - the more specialized the service, the more centralized its location must be. The Ministry planning program, therefore, must try to create a balance between availability of service and ease of access for the patient on one hand and on the other the ability to deliver care of high quality at a reasonable cost. The planning task is made more important as well as more difficult in the present climate of fiscal constraint.

## Sharing Planning Responsibility with District Health Councils

The Ministry has recognized the need for local involvement in the planning process. District health councils have been established to advise the Ministry on health planning matters for their districts. The district health councils' primary responsibilities are to identify local needs, evaluate alternatives, establish priorities, and plan a comprehensive health program for the district for which each is responsible within the framework of Ministry policies. Councils also have a role in the coordination of health and social development activities for the districts.

These councils are provincially appointed voluntary bodies made up of providers of health services, consumers, and representatives of municipal governments. All proposals for changes in facilities and in services that come from hospitals or other health care delivery agencies have to be reviewed by the appropriate district health council before being considered by the Ministry. Five councils have been established in northern Ontario; three of these are involved in the area north of the 50th parallel - Kenora-Rainy River, Thunder Bay and Cochrane District Health Councils.

### **III. RESPONSIBILITY FOR HEALTH SERVICES FOR REGISTERED INDIANS**

The provision of health services to registered Indians is a federal responsibility. The federal government operates a number of facilities north of the 50th parallel and provides public health services. These will be referred to in the next section of the paper but not considered in detail in this submission. Use is also made by the native peoples, including registered Indians, of the provincial health care system.

### **IV. NORTHERN ONTARIO NORTH OF THE 50TH PARALLEL**

#### Major Problems Affecting Health

Northern Ontario and in particular those areas north of the 50th parallel present a unique set of health problems both in terms of the health needs and the organizational arrangements required to effect solutions. Health needs of the native and non-native populations are affected by a number of cultural, geographical, climatic, socio-economic, technical and other factors peculiar to this environment. Some of the more pressing problems that have been documented are:\*

\* Report of a Study of the Future Role of the Moose Factory General Hospital, and Other Considerations Involved in Health Care in the Hudson and James Bay Area, Department of National Health and Welfare, May 1977.

- a) alcohol and drug abuse.
- b) high dental care needs.
- c) the distances to be travelled, the time involved, and the available modes of transportation.
- d) inadequate housing (especially among native people).
- e) difficulty in maintaining adequate nutrition due to inadequate knowledge, limited supply of required foods, and the high costs of those foods that are available.
- f) technical or procedural breakdown or inadequate local organization raise problems in environmental sanitation, contaminated water and food supplies, inadequate laundry, bathing, and waste disposal facilities.
- g) some communities are so small as to only justify a one-nurse health station. However, the isolation and responsibility are severe and result in high turnover rates.
- h) difficulty in attracting and maintaining required manpower to staff the health care facilities.

This list is by no means exhaustive, but only begins to illustrate the range of health related concerns that have to be addressed and the barriers that now exist that must be overcome. The problem is complicated by the divided jurisdiction between the federal and the provincial governments for health services, and the difficulty which that situation creates in achieving continuity of care.

#### Health Facilities and Services

Hospitals and Nursing Stations - The provision of health facilities north of the 50th parallel is subject to the same considerations and implications that affect the total health system. It has already been noted that populations are small and scattered, travel is difficult, and the large percentage of native people requires shared federal-provincial responsibilities for providing health services. Therefore, any discussion of health services in the north must take into account those provided by both levels of government.

In the area under study, there are 6 hospital facilities (including 2 federal hospitals) providing a total of 280 acute treatment beds, and 8 federal nursing stations. The location of each and the numbers of beds available are shown in Table 1, on page 7. In addition, a medical clinic, part of the James Bay General Hospital, is located at Moosonee. Arrangements have been made between the federal government and the health sciences centres at Toronto, London and Kingston to provide on-site and referral back-up medical specialists to the federal hospitals at Sioux Lookout and Moose Factory. Some services are provided to others in addition to registered Indians.

Referral patterns for hospital care do not conform to political boundaries or mapping coordinates, but are influenced by such factors as road conditions, availability of transportation, perceived needs, type of health problem, and a host of other medical and/or subjective conditions. Thus, a considerable volume of health services provided to people who live north of the 50th parallel is provided in more southern centres, especially those just south of the 50th parallel, from Kenora to Hearst to Thunder Bay to Toronto. The location where a patient receives care is dependent upon distance, type of resources required, and established linkages. In fact, many patients from northwestern Ontario who require more intensive levels of care travel to Winnipeg for hospitalization.

Attachment 5 (Table 2) lists health facilities in northeastern and northwestern Ontario with the bed numbers in each.

No mental health facilities exist north of the 50th parallel. However, some services are provided by visiting psychiatrists in Red Lake as well as at the federal hospitals at Moose Factory and Sioux Lookout. Patients are referred outside the study area for care, primarily to North Bay and Thunder Bay; some are referred to Winnipeg. Follow-up is provided by the patient's own physician and by public health nurses.

Mental health services in the north are of concern to the district health councils as well as the Ministry and studies are now in progress which include areas north of the 50th parallel.

The utilization of health facilities in the more remote areas of the north must be viewed differently than for other areas of the province. A brief review of Table 1 (page 7) shows that communities north of the 50th parallel lack many types of health facilities taken for granted in more populous regions, for example, chronic hospital facilities and nursing homes. Thus facilities that are present must try to respond to the health needs of the community. In-patient beds are used flexibly to meet the level of care required by the patient, within the capabilities of the facility's services and staff. Therefore, an active treatment hospital may well provide care to patients who would be considered in need of chronic care or care in a nursing home in areas where access to such facilities exists. It is desirable to provide this spectrum of care in these facilities, as it is preferable to care for people within their community whenever possible, rather than refer patients long distances to other centres.

Public Health - Communities north of the 50th parallel are served by three types of public health agencies:

- a) The provincially operated Northern Ontario Public Health Service - N.O.P.H.S. (Negotiations are currently underway to divest N.O.P.H.S. to respective adjacent health units - local Boards of Health).
- b) Locally operated district health units - Northwestern, Thunder Bay and Porcupine. (As above, anticipated shortly to extend coverage beyond the 50th parallel to northern limits of the province with inclusion of area currently served by N.O.P.H.S.).
- c) Federally operating Public Health Services.

TABLE 1

HOSPITALS AND NURSING STATIONS IN ONTARIO LOCATED NORTH OF THE 50TH PARALLEL  
HOSPITAL

<u>Territorial District</u>	<u>Location of Facility</u>	<u>Name of Facility</u>	<u>No. of Beds Staffed and in Operation (1)</u>
Cochrane	Fort Albany	James Bay: Fort Albany Unit	19
"	Moose Factory	Moose Factory General Hosp. (Federal)	98
Kenora	Attawapiskat	James Bay General: Attawapiskat Unit	19
"	Red Lake	Red Lake Margaret Cochenour Memorial	44
"	Sioux Lookout	Sioux Lookout General	40
"	" "	Sioux Lookout Zone Hospital (Federal)	60

FEDERAL NURSING STATIONS

<u>Territorial District</u>	<u>Name of Facility</u>	<u>Number of Beds</u>
Kenora	Big Trout Lake N.S.	4
"	Fort Hope N.S.	4
"	Kashechewan N.S.	3
"	New Osnaburgh N.S.	4
"	Pikangikum N.S.	4
"	Round Lake N.S.	4
"	Sandy Lake N.S.	4
"	Webique N.S.	2

SOURCE: Provincial Bed Situation, 1982-87.

(1) This refers to the number of beds and cribs for adults and children available for patient accommodation, whether rated or not, with staff available to provide the required level and type of care.

The current N.O.P.H.S. is a health unit administered by the Ministry of Health to provide Public Health Inspection and Nursing services to those areas of the province which the conventional health units do not include within their limited geographic areas of jurisdiction at the present time. However, negotiations that are underway are expected to lead to the divestment of N.O.P.H.S. and territory to the respective adjacent health units in 1983. Since N.O.P.H.S. was established in 1963 it has increased in size due to expansion in the more remote areas. Seven sub-offices are located in Northern Ontario, one of which is situated in Moosonee. The nursing program includes school activities such as control of communicable diseases, dental preventive services, health education, immunization, physician assessment and health testing services. Community nursing programs include the arrangement of evacuation of patients to primary care and consultants' services, hospital referrals and liaison, communicable disease control, family planning, home visits, and immunization clinics. Inspection services include communicable disease investigation, food control, private sewage system inspection, public education, recreational sanitation, school and institution inspection.

In addition, in more remote areas, programs include industrial camp inspection, provincial parks and camp ground inspections, tourist establishment and outpost inspection.

Mobile dental units presently operated by the Under-serviced Area Program also provide services in the north. They provide preventive and treatment services to pre-school and elementary school children at no cost to the parent in remote areas where dental care is either unavailable or extremely difficult to obtain. Seven mobile units operate in Northern Ontario. South and North (e.g. Armstrong, Savant Lake, Pickle Lake, Nakina, etc.) of the 50th parallel have received service from the dental coaches. It is planned that return visits will be made approximately every two years to provide maintenance (rather than just initial) care.

The locally operated district health units offer programs such as inspection services, nursing services, counselling, preventive dentistry, and health education programs in the southern section of the study area at the present time. The Northwestern Health Unit extends into the Red Lake-Balmertown area and the Thunder Bay Health Unit provides services to Nakina.

The federal government provides public health services on Indian reservations located north of the 50th parallel.

Home Care- The 1977 Submission to the Royal Commission indicated that there were no Home Care Services north of the 50th parallel. Since that time Home Care has expanded and now provides service to four areas not previously served. It should be noted, however, that due to the small scale of services required as a result of sparse population, there are serious problems in establishing service and in providing the full range of Home Care Services.

All of the Home Care Services provided to the area north of the 50th parallel are through suboffices of the Northwestern Home Care Program located in Kenora and administered by the Northwestern Health Unit.

Expansion to new areas since 1977 are outlined below:

1. Location: Sioux Lookout - suboffice

Area Served: Sioux Lookout and Hudson

Implementation Date: April 1, 1982

Services Available: Nursing  
Homemaking (purchased from  
Town of Sioux Lookout and  
private homemakers)  
Meals on Wheels

2. Location: Red Lake Road - from Dryden suboffice

Area Served: Red Lake Road, Quibel and immediate  
surrounding area

Implementation Date: February 11, 1981

Services Available: Nursing  
Homemaking (Red Cross) .

3. Location: Ear Falls - suboffice

Area Served: Ear Falls, Goldpines and immediate  
surrounding area

Implementation Date: January 10. 1983

Services Available: Nursing  
Homemaking (Red Cross by end  
of January 1983)

4. Location: Red Lake - suboffice

Area Served: Red Lake, MacKenzie Island, Cochenour,  
Balmerstown, Madsen, Starratt-Olsen

Implementation Date: July 1, 1981

Services Available: Nursing  
Homemaking (Red Cross)  
Physiotherapy

Hearing and Vision Clinics - Hearing and eye care medical services are provided to Northern Ontario population through mobile clinics funded through the Ministry of Health's Underserviced Area Program. Communities such as Sioux Lookout, Red Lake are visited on a yearly basis.

Alcohol and Drug Abuse - In 1980/81, alcoholism was one of the ten most frequent diagnoses recorded upon patient separation from hospital in two of the northern districts (Kenora and Rainy River). For the province as a whole, it was the 50th most frequently recorded diagnosis. This highlights the seriousness of this problem in the north. Activities aimed at reducing the severity of the problem have taken several forms ranging from community outreach type programs to hospital affiliated programs throughout the province serving regional and/or provincial needs.

... North of the 50th parallel the community based efforts that occur on Indian reservations are supported by the federal government. These programs provide a range of services from counselling to preventive education to manpower training. Alcoholics Anonymous have also expanded their services in the north in recent years.

As previously noted, hospital affiliated programs often accept referrals from all parts of the province. Examples of the types of programs operating in the north are:

Kenora - detoxification centre, halfway house, employment program for alcoholics, and in-hospital treatment program;

Thunder Bay - detoxification centre, in-patient alcohol treatment program at St. Joseph's Hospital and the Lakehead Psychiatric Hospital, male and female halfway recovery home, and Alcoholism and Drug Addiction Research Foundation community services.

#### Health Manpower

One of the most difficult obstacles to the delivery of health services in the remote north is the recruiting and retaining of health professionals. This problem has been well recognized and several program thrusts have been instituted to combat it. Two of the more successful programs that are currently operating are discussed below:

#### Underserviced Area Program

This program began in 1969 and is designed to attract family practitioners, dentists, speech therapists, audiologists, etc. to establish practice in those areas of the Province where family practitioner services are most urgently needed. It is a financial incentive program. A physician whose application has been approved by the Ministry's Medical Selection Committee and who establishes himself in practice in an area designated as underserviced in the North may apply to the Ministry for a contract with a minimum guaranteed annual net professional income or an income tax free grant payable over four years. In some instances because the population is small and the community isolated, it would be impractical and impossible to attract a doctor to establish practice. In these situations the areas are designated underserviced for nursing stations, and a nursing station with one or more nurses has been established. Professional assistance and back-up for the nurse is arranged with physicians in nearby areas.

There are today eight components of the Underserviced Area Program:

1. Undergraduate medical bursaries. There are 45 per year, each in the amount of \$5,000. These are provided with funds from the Ministry of Northern Affairs in a program administered by the Ministry of Health. There have been 164 bursary students on this program to date. Bursaries are available in each of the last two years in college. Students agree, upon graduation, to spend one calendar year in practice in an area designated underserviced for each year of academic financial assistance.

2. Financial incentives as mentioned above for Family Practitioners.
3. Income tax free incentive grants are provided to selected specialists in selected specialties who will go to Northern Ontario. Incentives are in the amount of \$20,000.00 paid quarterly over four years. \$8,000.00 the first year, \$6,000.00 the second year and \$3,000.00 in each of the next two years. There are 35 specialists on this program now.
4. Visiting specialists. Fully qualified specialists, preferably from the larger centres in Northern Ontario or from elsewhere are encouraged to visit the outlying rural communities to provide in-service seminars for hospital and/or medical staff and consultations. Specialists who take part in this program are eligible to have their travel, accommodation and meal expenses paid as substantiated by appropriate receipts. In addition, the specialist is given an honorarium of \$100.00 for each day that he conducts in-service seminars for hospital and/or medical staff. The specialist can work on a fee-for-service or a per diem rate when he is visiting the community.
5. A locum tenens program is maintained to provide emergency medical services when physician services available in a community are inadequate or collapse.
6. Services in Pickle Lake and Armstrong have been maintained for a number of years by the contractual arrangement with the College of Family Physicians Ontario Chapter. The College has withdrawn this arrangement effective December 31, 1982. Alternative arrangements are being investigated to continue this service. Until alternative arrangements can be made, services will be maintained directly by the Under-serviced Area Program.
7. In some areas, because of isolation or population base, it was impractical to establish a full-time resident physician. In these situations, fourteen nursing stations have been established. These stations are staffed by a nurse with back-up being provided by doctors in nearby communities. (see Attachment 5).
8. An annual recruitment program has been developed. During October all communities looking for health personnel are invited to send representatives. On successive nights all the communities represented visit each of the health science centres in Ontario (5). Residents, interns, dentists, doctors and all other allied health professionals interested in practice or job locations are invited to attend. At the last program held on October 19, 1982 almost 1,300 health professionals attended looking for locations to work.

In Northern Ontario, 76 centres have been designated as underserviced. 235 physicians are located in these centres, 93 of whom are practicing without Provincial support. 18 positions are vacant. In the area north of the 50th parallel seven physicians are practicing under the program. Red Lake - 3, Pickle Lake - 1, Ear Falls - 1, Moosonee - 2. There are nurse practitioners at Nakina and Minaki.

Services are also provided in Savant Lake from Ignace one day a week.

### The Northwestern Ontario Medical Program

The Northwestern Ontario Medical Program (NOMP) is a collaborative endeavour among health professionals in northwestern Ontario and the Faculty of Health Sciences at McMaster University. The program is coordinated through the Thunder Bay Medical Society and McMaster University Faculty of Health Sciences, and funded in part by the Ministry of Health. It is an educational program emphasizing comprehensive primary health care services in a community setting (especially ambulatory services). It is centred in Thunder Bay and a number of the smaller centres in northwestern Ontario are involved. It promotes continuing education among participating professionals, explores health problems from a community and regional perspective and is planned to exert a positive influence on the distribution of physicians and other health personnel in the region.

Examples of the current principal thrusts are:

- a) To interest northwestern Ontario residents in pursuing careers in the health sciences.
- b) To encourage the development, by existing northwestern Ontario practices, of ambulatory health care teaching programs for health sciences students.
- c) To offer educational enrichment for local health professionals by assisting them in pursuing their continuing education as physicians and becoming prepared for their roles as practitioners and educators; also foreseen is the reduction of professional isolation experienced by some physicians in the region.
- d) To encourage physicians to settle in rural and remote parts of Ontario and Canada by offering training in these areas before graduation and during residency; specifically, in this case, to encourage physicians to settle in northern Ontario or rural Ontario.

The community teaching practice opportunities are presently utilized primarily by family medicine residents as the top priority, and by final year medical students and nurse practitioner trainees.

### Other Programs

The federal government, in cooperation with the Universities of Toronto, Western Ontario and Queen's, operates an educational/service program in Sioux Lookout (University of Toronto) and Moose Factory (Western and Queen's). This program offers visiting medical specialists' consultant services and educational support for health promotion, prevention, training, and continuing professional development.

### Ambulance Service

The provision of ambulance services in the north is complicated by a number of factors such as distance, climatic conditions, and communications problems. Attempts to overcome these obstacles have necessitated the implementation of a mix of program thrusts. Examples of the types of programs being operated are:

Ambulance Service (Cont'd.)

a) The Province of Ontario is responsible for the provision of ambulance service. In the land system, 194 ambulance services using approximately 600 Ministry-owned vehicles travelled over 9.5 million miles and carried over 500,000 patients during fiscal year 1981/82.

In northeastern Ontario there are thirty ambulance services, which travelled 900,000 miles transporting approximately 40,000 patients.

In the northwest, 24 services drove 470,000 miles to care for nearly 15,000 patients.

Since 1977, ambulance services have been established in Pickle Lake, Nakina and Longlac in the northwest and in Killarney and South River in the northeast.

b) Air Ambulance Service - The Ministry of Health initiated an expanded Air Ambulance Service in Northern Ontario during July of 1981. This service encompassed dedicated ambulances, commercial charter aircraft, and scheduled airline transportation for medical patients. The service is provided to give safe, rapid transport for critically ill patients who must be moved from one medical facility to another as an extension of the patient treatment process. The dedicated Air Ambulance Service in the north uses two medically qualified flight attendants. The Air Ambulance aircraft and base locations are:

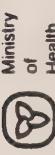
1. A helicopter flying out of Sudbury on a normal radius of operation of about 300 km.
2. A helicopter flying out of Thunder Bay also operating on a radius of about 300 km.
3. A fixed-wing, turbo-propellor aircraft flying out of Sioux Lookout to provide service to Northwestern Ontario.
4. A fixed-wing, jet-powered aircraft based at Timmins to provide ambulance service primarily to Northeast Ontario and to other areas if needed (this is made possible by the aircraft's high transit speed).

The dedicated northern service carried 1,777 patients during the first year of operation. Charter aircraft and scheduled airlines during the same time frame, carried about 70% of the total number of patients requiring specialized medical treatment for less critical ailments than those persons transported by the dedicated air ambulances. The number of patients transferred represents a 62% increase in use over a two-year time frame. The charter carriers normally have some medical equipment on their aircraft and attendants can be provided from hospital staffs on a limited basis to accompany critically ill patients.

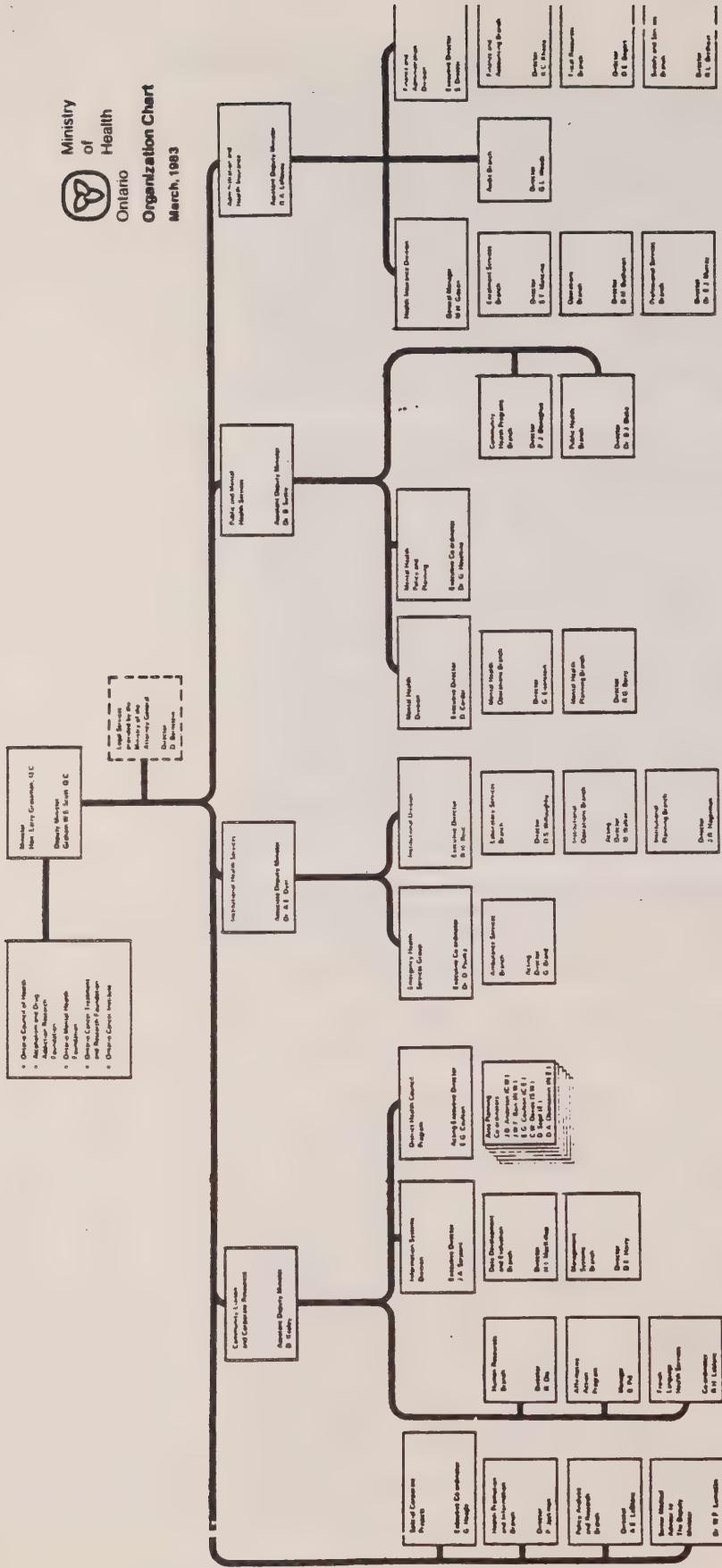
The Air Ambulance Service is now approved as a permanent program designed to support base hospitals in the north. These are planned at Thunder Bay and Sudbury. The dedicated air ambulance input will include more highly qualified attendants trained to EMCA II standards which includes advanced levels of trauma and cardiac life-support training. This improvement in service is planned to be accompanied by upgraded communications and dispatch systems plus an increase in the number of emergency medical helicopter landing sites wherever possible. The program is supported financially by the Ministries of Health, and Northern Affairs and is managed by the Ministry of Health.

- c) In the Moose Factory area, a specialized type of activity is undertaken to provide ambulance service across the Moose River on a regular basis throughout the year. This includes the need for land ambulance, a boat ambulance in the summertime, plus a helicopter rented during the freeze-up and ice break-up periods. The service transports patients to and from the Island in support of both provincial and federal government programs.
- d) First Response Units - In the more isolated areas where the distance to hospital is considerable, volunteers have been trained to provide emergency care to patients until evacuation can be made. The Air Ambulance Service is used in special circumstances concerning life and death cases where safe, fast, medical transport is needed and cannot be provided by land ambulances.

In instances where it is medically necessary for a patient to travel to and from Winnipeg, arrangements with OHIP are made to cover all of the ambulance costs on inter-hospital transfers.



**Ontario  
Organization Chart  
March 1982**



RELATIONSHIP BETWEEN MINISTRY OF HEALTH AND DELIVERY AGENTS\*

Different delivery agencies have different relationships with the Ministry of Health and local groups. Five examples show some of the differences:

1. Public hospitals are owned and operated by local hospital corporations. Voluntary boards of trustees, composed mostly of laymen, are selected by the corporation members; the Lieutenant Governor in Council also may appoint representatives to hospital boards. Boards may plan for additional facilities or changes in program, but the plans must be approved by the Ministry of Health before they can be implemented.

The Province provides most of the capital costs for approved hospital projects (66 2/3 per cent to 100 per cent), with the community being responsible for the remainder. The Province pays for operating costs for patients insured under the Ontario Health Insurance Plan. The provincial contribution averages approximately 90% of operating costs with the remainder being met by other agencies such as the uninsured patient and the hospital. Hospital boards are accountable to the Ministry for the spending of these funds. They are also responsible for managing the facility and maintaining quality of care.

2. Public Health services are provided by local boards of health. These boards are autonomous, with the majority of board members appointed by the municipalities (including regional government) in the areas covered by the health units. The remaining members are appointed by the Lieutenant Governor in Council on the recommendation of the Minister of Health. The provincial government provides financial support (25 per cent to 75 per cent of costs) for approved services, and the municipalities are responsible for the remainder. Municipal governments pay the full cost of services that are not provincially supported (such as dental treatment services). When boards of health undertake programs on behalf of the Province (for example, Home Care), the Province pays the full cost of the program. Responsibility rests with the board, and the board is financially accountable to both the municipal governments and the Ministry of Health.
3. Provincial psychiatric hospitals are owned and operated by the provincial government. Day-to-day administrative responsibility is delegated to the hospital administrator.
4. Nursing homes are privately owned and operated. They are licensed by the Ministry of Health and may not be built or renovated without Ministry approval. No provincial grants are available to meet capital costs. Services are contracted for and payment is made by the Ministry, at a per diem rate, for patients who qualify for the Extended Care Program. Nursing homes are inspected by Ministry staff to ensure that standards are adhered to.
5. Most physicians and some other health professionals (such as optometrists, chiropractors and some physiotherapists) receive payments from the Ontario Health Insurance Plan directly and not through an institution. The Ministry pays for services provided to the patient by the practitioner in accordance with an agreed schedule of benefits.

\* Report of the Health Planning Task Force, (Toronto, January, 1974), pp. 23, 24.

INSURED SERVICES UNDER THE  
ONTARIO HEALTH INSURANCE PLAN

Benefits for the professional services of physicians and other health practitioners included in the Plan are available when the person providing the service is duly licensed to practise that profession.

Ontario Health Insurance benefits are available for medically necessary services received in approved hospitals. These include public general hospitals, hospitals for rehabilitation and for convalescents and the chronically ill, and Ontario psychiatric hospitals. Benefits are also provided in most private hospitals.

Physicians' Services

The Plan pays in accordance with the OHIP Schedule of Benefits for all physicians' services that are medically required. These services include:

- physicians's services in the home, the physician's office, the hospital or institution;
- services of specialists certified by the Royal College of Physicians and Surgeons of Canada;
- diagnosis and treatment of illness and injury;
- treatment of fractures and dislocations;
- surgery;
- administration of anesthetics;
- x-rays for diagnostic and treatment purposes;
- obstetrical care, including prenatal and postnatal care;
- laboratory services and clinical pathology when ordered and performed under the direction of a physician.

Hospital Services

The Plan covers the cost of the following medically necessary hospital services for insured patients treated at an approved hospital by a licensed physician, on an in-patient or out-patient basis:

- standard-ward accommodation;
- necessary nursing services, when provided by the hospital;
- laboratory and x-ray diagnostic procedures;
- drugs prescribed by a physician (except when the hospital visit is solely for the administration of drugs);
- use of operating and delivery rooms, anesthetic and surgical supplies;
- use of radiotherapy facilities;
- services rendered by any person paid by the hospital.

Plan benefits are also provided for the following services when prescribed by a physician as a medically necessary course of treatment and provided in Canada by hospitals approved by the Plan:

- occupational therapy;
- physiotherapy;
- speech therapy.

#### Extended Health Care

(Nursing Homes and Homes for the Aged)

Where an insured person requires continuing nursing service and regular medical supervision in a participating nursing home or home for the aged, the Plan will provide benefits toward the approved standard ward costs of such care. Eligible patients are required to pay a portion of the daily standard ward costs, as established by legislation, plus any additional charges for preferred accommodation (private or semi-private room).

#### Home Care

Certain patients, whose physicians prescribe additional health-care services, may be able to have these services provided in their homes. Such services may be needed in place of admission to hospital, or following early discharge from hospital. To be eligible for this benefit, the patient's doctor must specify that at least one professional health care service is needed. Any insured person who qualifies for such home care, through an organized Home Care Program in Ontario, will not be charged for these services.

#### Ambulance Services

If the use of an ambulance is medically necessary, an insured person is required to pay only the following amounts:

- \$21 for a land ambulance trip;
- \$21 for an authorized air ambulance trip (including the cost of connecting land ambulances).

Exemption from this co-payment is provided in a number of specified circumstances.

#### Dental Care in Hospital

A specified list of procedures are reimbursed according to the Ontario Health Insurance Plan Dental Schedule of Benefits when:

- a) performed in an approved hospital; and
- b) performed by an oral surgeon or dentist.

#### Optometrists

Optometric services, when rendered by an optometrist, are insured benefits under the Plan. These services are reimbursed in accordance with the OHIP Schedule of Benefits.

### Drug Plan

Ontario's Drug Benefit applies to all persons aged 65 years and over who have resided in Ontario for 12 consecutive months as Canadian citizens or landed immigrants. Those eligible are able to receive any of the more than 1,500 prescription medicines covered by the Drug Benefit. All medicines must be prescribed by a physician, dentist or other qualified health practitioner.

Only drugs listed in the Ontario Drug Benefit Formulary are supplied free of charge and all prescriptions must be filled in Ontario. If a needed drug cannot be replaced by one listed in the Formulary, the prescribing practitioner may be able to get it specially authorized by the Drug Benefit Program.

### Chiropractors

Plan benefits include chiropractic services rendered in an office, institution or home - to a maximum of \$165 per person in a 12 month period, including up to \$25 for related x-ray examinations.

### Osteopaths

Plan benefits include osteopathic services rendered in an office, institution or home - to a maximum of \$125 per person in a 12 month period, including up to \$25 for related x-ray examinations.

### Chiropodists (podiatrists)

Plan benefits include chiropodist (podiatrist) services rendered in an office, institution or home (plus independent minor procedures as permitted under the statute) - to a maximum of \$100 per person in a 12 month period, plus up to \$25 for related x-ray examinations.

### Out of Province Coverage

The Plan pays the full hospital charges (at the establishment's lowest rate) and for medically necessary care in a hospital acceptable to the Plan anywhere in the world - except where an insured person receives non-emergency or elective care in a hospital in the United States, which could have been received in Ontario. In such cases the Plan pays 75 per cent of the hospital's charges (at the establishment's lowest rate) for insured services. Hospitals in other Canadian provinces bill the Plan directly for insured services provided to Ontario residents.

Insured benefits for treatment by physicians and other practitioners, whether in or out of hospital, are reimbursed at the rates applicable in Ontario.

ATTACHMENT 4

Premium History

Monthly Premium Rates

	<u>Single</u> \$	<u>Couples</u> \$	<u>Family</u> \$
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1959-1964

Hospitalization	2.10	4.20	4.20
Medical Services	-	-	-

1964-1968

Hospitalization	3.25	6.50	6.50
Medical Services - full pay	5.00	10.00	12.50
- partial assistance	2.50	5.00	5.00
- full assistance	-	-	-

1968-1972 (April 1)

Hospitalization	5.50	11.00	11.00
Medical Services - full pay	5.90	11.80	14.75
- partial assistance	2.95	5.90	5.90
- full assistance	-	-	-

1972-1976 (Aug. 1)

Hospitalization			
Medical Services) - full pay	11.00	22.00	22.00
- partial assistance	5.50	11.00	11.00
- full assistance	-	-	-

	<u>Single</u> \$	<u>Family</u> \$
--	---------------------	---------------------

Aug. 1, 1976 - April 1, 1978

Full pay	16.00	32.00
Partial assistance	8.00	16.00

April 1, 1978

25% Assistance	12.00	24.00
50% Assistance	8.00	16.00
75% Assistance	4.00	8.00

August 1, 1978

Full pay	19.00	38.00
25% Assistance	14.25	28.50
50% Assistance	9.50	19.00
75% Assistance	4.75	9.50

October 1, 1979

Full pay	20.00	40.00
25% Assistance	15.00	30.00
50% Assistance	10.00	20.00
75% Assistance	5.00	10.00

	<u>Single</u>	<u>Family</u>
	\$	\$

**October 1, 1981**

Full pay	23.00	46.00
25% Assistance	17.25	34.50
50% Assistance	11.50	23.00
75% Assistance	5.75	11.50

**October 1, 1982**

Full pay	27.00	54.00
25% Assistance	20.25	40.50
50% Assistance	13.50	27.00
75% Assistance	6.75	13.50

**Premiums (Effective October 1, 1982)**

Single person	\$27/mo.	\$324/yr.
Family	\$54/mo.	\$648/yr.

**Income Criteria For Premium Assistance (Effective October 1, 1982)**

Single person	\$ 0 - 3,000 taxable income - no premium	
	3,000 - 3,500 "	- 25% premium
	3,500 - 4,000 "	- 50% premium
	4,000 - 4,500 "	- 75% premium
Family	\$ 0 - 3,500 taxable income - no premium	
	3,500 - 4,500 "	- 25% premium
	4,500 - 5,000 "	- 50% premium
	5,000 - 5,500 "	- 75% premium

TABLE 2 - HEALTH FACILITIES LOCATED IN NORTHEASTERN AND NORTHWESTERN ONTARIO REGIONS

•11 This refers to the number of beds and cribs for adults and children available for patient accommodation, whether rated or not, with staff

(2) Under the administration of the Ministry of Community and Social Services



Territorial District	Location of Facility	Active Psychiatric Acute Chronic General Rehabilitation Special Rehabilitation Detoxification Nursing Station Ontario Psychiatric Mental Retardation Nursing Homes Homes for the Aged									
		Burk's Falls	Parry Sound	92	22	64	101	74	175	66	168
Parry Sound	Parry Sound										
	Trout Creek										
	Rowasan										
	Sub-Total			114	64						
Rainy River	Attikokan	19	6								
	End	23									
	Fort Frances	00	37								
	Rainy River	15									
	Sub-Total	137	43								
Sudbury District	Chapleau	26	4								
	Espanola	24	8								
	Sub-Total	50	12								
Sudbury R.M.	Sudbury	701	101	97		31	16			523	385
	Nickel Centre									80	385
	Sub-Total	701	101	97		31	16			603	385



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Fri. Jul 21, 1983

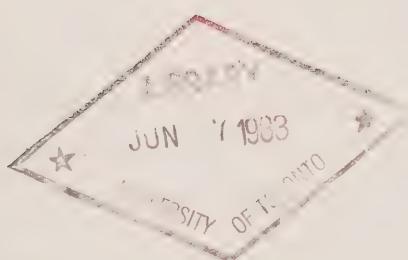


Government  
Publications

## DEER LAKE BAND

REPORT TO

ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT



## COMMUNITY STATISTICS

LOCATION: 125 MILES NORTH OF RED LAKE  
NORTH OF 50°

POPULATION: 600 PREDOMINANTLY OJIBWAY-CREE NATIVE, 5% NON-NATIVE

## REPORT FORMAT

1. NUMBER OF WEEKS IN RESEARCH PROGRAM
2. RESEARCH DOCUMENTATION
3. RECOMMENDATIONS
4. CONCLUSIONS

NUMBER OF WEEKS IN RESEARCH PROGRAM

MONTH: OCTOBER, 1982

FIRST WEEK: PREPARATION OF PROJECT, HIRE TWO FIELD WORKERS, BAND OFFICE SPACE, SUPPLIES, TELEPHONE, ETC.

SECOND WEEK: FISHING RESEARCH

THIRD WEEK: FISHING RESEARCH

FOURTH WEEK: FISHING RESEARCH

MONTH: NOVEMBER, 1982

FIRST WEEK: TOURIST CAMPS AND OUT-POST CAMPS RESEARCH.

SECOND WEEK: TIMBER RESEARCH

THIRD WEEK: FREEZE-UP

FOURTH WEEK: TIMBER RESEARCH

MONTH: DECEMBER, 1982

FIRST WEEK: TIMBER RESEARCH

SECOND WEEK: TIMBER RESEARCH

THIRD WEEK: COMPLETION OF PROJECT AND FINAL REPORT.

FOURTH WEEK: COMPLETION OF PROJECT.

## RESEARCH DOCUMENTATION

THIS PORTION OF THE REPORT WILL CONTAIN THREE SPECIFIC AREAS OF CONCERN THAT THE COMMUNITY REGARDS IMPORTANT FOR THE GENERAL WELL BEING OF THE COMMUNITY. THESE SPECIFICS ARE AS FOLLOWS:

1. FISHING - COMMERCIAL  
- SPORT
2. TIMBER
3. WEST PATRICIA LAND USE PLAN

### FISHING

THE RESEARCH PROGRAM UNDERTOOK ITS PROJECT BY EXAMINATION OF DIFFERENT SPECIES OF FISH IN AND AROUND THE COMMUNITY AND SPECIFICALLY THE DEER LAKE WATERS. THIS WAS ACCOMPLISHED PRIMARILY BY GILL NET FISHING IN DIFFERENT PARTS OF THE LAKE.

A MAJOR FACTOR OF CONCERN THAT INSTIGATED THIS PROGRAM WAS THAT THE MNR HAD INDICATED TO THE BAND THAT THE FISH IN DEER LAKE WERE GETTING DEPLETED VIA COMMERCIAL FISHING PLUS SPORT FISHING AND THAT THE FISH CONTAINED NATURAL MERCURY. THE FACT THAT THE COMMUNITY WAS INFORMED OF THIS SITUATION FROM THE MNR DID NOT GO TOO WELL WITH THE COMMUNITY AS THEY FELT THAT MNR WAS GIVING THEM INCORRECT INFORMATION BASICALLY IN ORDER TO WITHHOLD FISHING PROGRAMS FROM THE BAND AND TO RESERVE THE LAKE FOR SPORT FISHING. THE COMMUNITY FELT THAT MNR WAS RESERVING THE LAKE FOR THE PURPOSE OF ENCOURAGING NON-NATIVE ENTERPRISE.

THE GILL NET FISHING PROCEDURE REVEALED THAT FISH WERE DEPLETED IN SOME AREAS OF THE LAKE AND THAT CERTAIN AREAS CONTAINED AN ABUNDANCE. WHETHER A COMMERCIAL ENTERPRISE REFLECTING FISHING IN THE DEER LAKE AREA WOULD BE PROFITABLE TO INITIATE, THE RESEARCH PROGRAM DID NOT INDICATE. HOWEVER, THE PROGRAM DID KNOW THAT THE LAKE CONTAINED COMMON SPECIES OF FISH AS PREDOMINATE IN MOST NORTHERN ONTARIO WATERS. THE EXCEPTIONAL PRESENCE OF LAKE TROUT IN THE DEER LAKE WATERS WAS AN ADVANTAGE. MOST NORTHERN LAKES DO NOT CONTAIN LAKE TROUT ALONG WITH THE OTHER COMMON SPECIES SUCH AS PICKEREL, NORTHERN PIKE, WHITE FISH, SUCKER, ETC.

THE COMMERCIAL FISHING LICENCES THAT WERE HELD BY THE BAND THROUGHOUT THE YEARS WERE GRADUALLY CANCELLED OUT BY THE MNR. THE COMMUNITY HAS STATED THAT OVER 80% OF THE LICENSES THAT MNR HAD ORIGINALLY ISSUED TO THE BAND WERE CANCELLED. MNR HAD INFORMED THE BAND THE LICENCES WERE GRADUALLY PHASED OUT BECAUSE OF THE HIGH CONTENT OF NATURAL MERCURY IN THE FISH. THE COMMUNITY IS QUITE SKEPTICAL OF THIS INFORMATION BECAUSE THEY HAD NEVER SEEN ANY DOCUMENTATION FROM THE MNR REFLECTING THIS FACT. IT IS THE BAND'S CONTENTION THIS COMMUNITY GENERATED A GOOD LIVELIHOOD FROM COMMERCIAL FISHING BEFORE THE LICENCES ISSUED TO THE BAND WERE GRADUALLY REVOKED. BECAUSE THE BAND DOES NOT POSSESS THE NECESSARY EXPERTISE AND THE SCIENTIFIC BACK-UP, THERE SEEMS TO BE NO WAY TO DETERMINE WHETHER THE INFORMATION AS SPECIFIED BY THE MNR IS CREDIBLE.

## FISHING CONT'D ...

WITHIN THE SPORT FISHING AREA, THE PROGRAM HAS REVEALED THAT THE LAKE CONTAINED ENOUGH SPECIES OF GAME FISH TO OFFER THE COMMUNITY A SEASONAL ECONOMIC RESOURCE. FROM INFORMATION GATHERED FROM THE TOURIST CAMP OPERATORS AND FROM THE NATIVE OUT-POST CAMP OPERATORS, THE INFLUX OF TOURISTS INTO THE DEER LAKE AREA IS QUITE SUBSTANTIAL. THE RESEARCH PROGRAM HAS SHOWN THAT THE BAND SHOULD BE GIVEN EVERY OPPORTUNITY TO INITIATE COMMERCIAL ENTERPRISE FROM THIS RESOURCE.

THERE ARE TWO OR THREE TOURIST CAMPS IN THE DEER LAKE AREA THAT ARE CURRENTLY OWNED AND OPERATED BY NON-NATIVE ENTREPRENEURS. A COUPLE OF CAMPS DEFINED AS OUT-POST CAMPS ARE CURRENTLY BEING OPERATED BY BAND MEMBERS OF THE DEER LAKE COMMUNITY.

SPORT FISHING IN THE DEER LAKE AREA OFFERS TO THE BAND A POTENTIALLY GOOD ECONOMIC BASE.

## TIMBER

THIS PART OF THE RESEARCH REQUIRED THAT THE BAND DETERMINE ESTIMATES OF THE AMOUNT OF AVAILABLE TIMBER AND THE SPECIES OF AVAILABLE TIMBER THAT MIGHT BE UTILIZED IN THE FUTURE AS A POSSIBLE ECONOMIC RESOURCE. THE COMMUNITY UTILIZES THE RESOURCE, AS DO OTHER NATIVE COMMUNITIES IN NORTHWESTERN ONTARIO MAINLY ON A DAY TO DAY BASIS. BECAUSE OF THE HIGH COST OF FUEL, WHETHER IT BE GASOLINE, DIESEL OR ELECTRIC HEAT, THE COMMUNITY DEPENDS ENTIRELY ON WOOD HEAT FOR THEIR DAY TO DAY EXISTENCE.

THE HOUSING PROGRAM OF THE COMMUNITY IS ADMINISTERED BY THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT BASED IN SIOUX LOOKOUT. ALL THE MATERIALS REQUIRED FOR THE BAND'S HOUSING PROGRAM ARE TRANSPORTED FROM BUILDING SUPPLIERS IN SIOUX LOOKOUT, RED LAKE, WINNIPEG, ETC. A SMALL PERCENTAGE OF THE 2 X 4'S AND 8 X 8'S IS OBTAINED FROM THE DEER LAKE BAND'S LOCAL SAWMILL, DEPENDING ON HOW SUCCESSFULLY THE SAWMILL GENERATED LUMBER FOR THAT YEAR; THIS IS OF COURSE EQUALLY DEPENDANT ON FUNDS ALLOCATED FROM THE ECONOMIC DEVELOPMENT FUNDS OF THE DIAND.

THE DEER LAKE AREA IS 90% BEDROCK; THE REMAINING 10% OF THE SURFACE IS MOSTLY SWAMP AND CLAY AREAS. THE TREE POPULATION IS SPARSELY CLUSTERED IN THE SWAMPY AND CLAY AREAS. THE RESEARCH PROGRAM WAS QUITE RESTRICTED IN SPECIFIC FIELDS OF EXPERTISE AND SCIENTIFIC KNOW-HOW IN DETERMINING BASIC GROWTH TO EFFECTIVELY EXPAND ON THE SUBJECT OF GEOGRAPHY AS IT RELATES TO THE BOTANICAL CONCERNS.

HOWEVER, THE RESEARCH PROGRAM HAS REVEALED THAT OVER 50% OF THE DEER LAKE FORESTED AREAS HAVE BEEN BURNED-OUT THROUGH THE LAST TWO DECADES. THE MNR HAS STATED TO THE COMMUNITY THAT THE MINISTRY IS RESPONSIBLE FOR FOREST FIRE PROTECTION FIVE MILES SOUTH OF THE COMMUNITY WHERE THERE IS A BASE LINE. ALL FORESTED AREAS SOUTH OF THAT BASE LINE ARE UNDER THE MANDATE OF THE MNR'S FIRE FIGHTING PROGRAM; ALL ABOVE THAT BASE LINE MUST BURN THEMSELVES OUT. BECAUSE THE FIRE DID NOT REALLY THREATEN LIVES IN THE VILLAGE, THE MNR DID NOT DEEM IT NECESSARY TO CONTROL NEARBY FIRES.

COMMON SPECIES OF TREES PREDOMINATE IN THE AREA, SUCH AS: JACK PINE, SPRUCE, POPLAR AND BIRCH. THESE SPECIES ARE PREVALENT IN THAT PART OF NORTHWESTERN ONTARIO. MAPS THAT HAVE BEEN SENT TO THE RCNE OFFICE INDICATE CLUSTERS OF THESE SPECIES WITHIN THE DEER LAKE COMMUNITY.

## WEST PATRICIA LAND USE PLAN

IN THE LATTER PART OF MAY, 1982, TWO STAFF MEMBERS OF THE RCNE ARRIVED IN DEER LAKE TO DISCUSS WITH THE BAND COUNCIL SOME INFORMATION ON THE UPCOMING RCNE HEARINGS THAT WOULD TRANSPIRE BEFORE CHRISTMAS OF THAT YEAR. IN THE COURSE OF THE DISCUSSION, THE TOPIC OF THE WEST PATRICIA LAND USE PLAN WAS RAISED FOR THE BAND'S THOUGHTS ON IT. THE BAND AT THAT TIME HAD NO KNOWLEDGE OF THE WEST PATRICIA LAND USE PLAN. THE BAND WAS TOLD THE BASIC CONTENTS OF THE WPLUP AS OUTLINED BY THE MNR. THE BAND WAS GREATLY DISTURBED THAT A GOVERNMENT DOCUMENT WAS READY TO BE IMPLEMENTED WITHOUT A SINGLE CONSULTATION WITH THE BAND TO ACCOMODATE THE INPUT OF COMMUNITIES WITHIN THE WPLUP.

THE DEER LAKE BAND EVENTUALLY CONSULTED THEIR TRIBAL COUNCIL, (THE PEHTABUN TRIBAL COUNCIL CONSISTS OF SANDY LAKE, DEER LAKE, PIKANGIKUM, POPLAR HILL, NORTH SPIRIT LAKE AND McDOWELL LAKE) ABOUT THEIR CONCERNs REGARDING THE MNR's WPLUP. THE CONSENSUS OF THE TRIBAL COUNCIL INDICATED THAT THE MAJORITY OF THE PEHTABUN COMMUNITIES HAD NOT HEARD OF THE WPLUP UNTIL CONCERN WAS VOICED FROM THE OTHER PEHTABUN COMMUNITIES.

AFTER SOME CONSULTATION WITH THE DISTRICT MNR, IT WAS RELATED TO THE BANDS THAT INFORMATION PACKAGES HAD BEEN SENT OUT TO ALL THE BANDS IN THE PEHTABUN AREA. BECAUSE OF THE TECHNICAL CONTENT OF THE INFORMATION PACKAGES, IF THEY WERE EVEN RECEIVED AT ALL, THE BAND COULD NOT COMPREHEND THE INFORMATION WITHIN THE INFORMATION PACKAGES AND COULD NOT INTERPRET THE IMPLICATIONS OF THE INFORMATION PACKAGES TO THEIR COMMUNITIES AND AREAS. EVENTUALLY, THE TRIBAL COUNCIL SUCCEEDED IN PERSUADING THE DISTRICT MNR TO HOLD A WORKSHOP IN RED LAKE TO EXPLAIN TO DELEGATED REPRESENTATIVES OF EACH COMMUNITY THE IMPLICATIONS OF THE WEST PATRICIA LAND USE PLAN. AS FAR AS THE DEER LAKE BAND IS CONCERNED, THE WORKSHOPS SUCCEEDED IN MEETING THE PUBLIC PARTICIPATION PROCESS IN THEIR MANDATE BUT AS YET THE DEER LAKE BAND IS UNCERTAIN AS TO HOW TO HAVE INPUT INTO THE PROCESS.

## RECOMMENDATIONS

THE PROGRAM THAT WAS UNDERTAKEN BY THE DEER LAKE BAND AND COMMUNITY WAS INITIATED BY FUNDS FROM THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT HEADED BY COMMISSIONER J.E.J. FAHLGREN. THE BAND EMPLOYED TWO PEOPLE FROM THE COMMUNITY TO BASICALLY EXAMINE CONCERN AT THE COMMUNITY LEVEL REGARDING MNR's WPLUP, SINCE IT HAD CREATED A STIR OF CONCERN WITH ITS LAND USE PLANS WITHIN THE DEER LAKE COMMUNITY. THE TWO EMPLOYEES WERE SOLOMON MEEKIS AND NICK MEEKIS, BOTH FROM THE COMMUNITY.

THE BAND COUNCIL AND THE DEER LAKE COMMUNITY HAD A MAJOR CONCERN IN THIS PROCESS OF PREPARING AND PRESENTING A VIABLE AND CREDIBLE PRESENTATION TO COMMISSIONER ED FAHLGREN. THIS CONCERN WAS THAT THE PERIOD OF 10 WEEKS DID NOT GIVE THE BAND SUFFICIENT TIME TO MAKE THOROUGH RESEARCH INTO ITS CONCERN. HOWEVER, THE DEER LAKE BAND WOULD LIKE TO REQUEST FROM THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT COMMISSIONER, ED FAHLGREN, THAT HE RECOMMEND TO THE GOVERNMENT OF ONTARIO THE FOLLOWING RECOMMENDATIONS AS EXPRESSED BY THE BAND COUNCIL AND COMMUNITY OF THE DEER LAKE BAND:

### RECOMMENDATION #1

#### WEST PATRICIA LAND USE PLAN

THE DEER LAKE BAND COUNCIL AND COMMUNITY DID NOT PARTICIPATE IN ANY WAY IN THE PROCESS OF CONSTRUCTION OF MNR's WPLUP WHILE MNR HAD AVAILABLE DOLLAR RESOURCES AND TIME OF SEVEN YEARS TO DISCUSS, PLAN AND FORMULATE THE WPLUP. TO EXPECT THE DEER LAKE BAND AND COMMUNITY TO ENDORSE THE PLAN IN ITS ENTIRETY IS COMPLETELY UNREASONABLE. UNLIKE THE MNR, THE DEER LAKE BAND AND COMMUNITY DOES NOT HAVE THE FUNDS, EXPERTISE, TECHNICAL STAFF AND RESOURCES TO FULLY COMPREHEND AND INTERPRET IN A SHORT PERIOD OF TIME (AS REQUESTED BY THE MNR) THE WPLUP AND ITS IMPLICATIONS. WE RECOMMEND THAT THE WPLUP IS NOT ACCEPTABLE TO THE DEER LAKE BAND BECAUSE OF ONE OBVIOUS POINT: THE WPLUP WAS CONCEIVED BY GOVERNMENT BUREAUCRACY AND IS IN NO WAY THE DEER LAKE BAND'S LAND USE PLAN AND INTEREST.

### RECOMMENDATION #2

#### WEST PATRICIA LAND USE PLAN

WE RECOMMEND THAT FUNDS AND RESOURCES BE MADE AVAILABLE TO ENABLE THE DEER LAKE BAND AND COMMUNITY TO COMPREHEND THE WPLUP AS CONCEIVED BY THE MNR. THAT RESOURCES SUCH AS, TRANSPORTATION, TRANSLATION AND PERSONNEL BE MADE AVAILABLE TO ENABLE OUR COMMUNITY TO PARTICIPATE IN THE PROCESS OF LAND USE PLANNING IN OUR AREA.

## **RECOMMENDATION #3**

### WEST PATRICIA LAND USE PLAN

WE RECOMMEND THAT FUNDS AND RESOURCES BE MADE AVAILABLE TO ENABLE THE DEER LAKE BAND TO INITIATE AND FORMULATE A LAND USE PLAN AT THE DEER LAKE COMMUNITY LEVEL THEREBY ALLOWING INPUT INTO THE WEST PATRICIA LAND USE PLAN.

## **RECOMMENDATION #4**

### WEST PATRICIA LAND USE PLAN

WE RECOMMEND THAT THE MNR's WPLUP BE DELAYED 2 TO 3 YEARS IN IMPLEMENTATION UNTIL THE DEER LAKE BAND AND COMMUNITY HAS HAD SUFFICIENT TIME AND RESOURCES TO PARTICIPATE EFFECTIVELY AND SATISFACTORILY IN THE PROCESS OF PLANNING AND DECISION-MAKING.

## **RECOMMENDATION #5**

### WEST PATRICIA LAND USE PLAN

WE RECOMMEND THAT WE PARTICIPATE FULLY IN ANY FURTHER DISCUSSIONS, WORKSHOPS, ADHESIONS AND/OR OMISSIONS RELATED TO MNR's WPLUP.

## **RECOMMENDATION #6**

### FOREST FIRE BASE LINE

WE RECOMMEND THAT THE MNR EXTEND THEIR FIRE PROTECTION BASE LINE TO INCLUDE ALL OF THE DEER LAKE AREA SO THAT UNNECESSARY DESTRUCTION TO THE DEER LAKE COMMUNITY'S RESOURCES BE AVOIDED.

## **RECOMMENDATION #7**

### FEDERAL FUNDS (DIAND)

WE RECOMMEND THAT ALL FUNDS THAT ARE CURRENTLY ADMINISTERED FOR US BY THE DEPARTMENT OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT IN THE HOUSING PROGRAM BE TURNED OVER TO IIS. THIS RECOMMENDATION BASED ON THE PRINCIPLE THAT WE FEEL CAPABLE IN ADMINISTRATION OF CERTAIN PROGRAMS AND THAT WE FEEL THAT THE PATERNALISTIC RELATIONSHIP WITH DIAND MUST CEASE IF WE ARE TO BECOME INDEPENDENT.

## **RECOMMENDATION #8**

### FEDERAL FUNDS (NATIONAL HEALTH & WELFARE)

WE RECOMMEND THAT FUNDS BE RELEASED TO THE DEER LAKE BAND TO HIRE A COMMUNITY RESIDENT NURSE AND MEDICAL EQUIPMENT BE MADE AVAILABLE SO THAT THE COMMUNITY WILL NOT BE LACKING IN NECESSARY MEDICAL SUPPLIES. WE WISH TO APPLY THIS RECOMMENDATION TO THE PRINCIPLE IN RECOMMENDATION #7.

RECOMMENDATION #9

EDUCATION

WE RECOMMEND A HIGH SCHOOL FACILITY BE CONSTRUCTED IN THE PEHTABUN AREA SO THAT WE AS AN OJIBWAY-CREE NATION, MIGHT BEGIN TO TAKE CONTROL OF NATIVE EDUCATION AND CURRICULUM.

RECOMMENDATION #10

EDUCATION

WE RECOMMEND THAT AN ADULT EDUCATION PROGRAM BE INITIATED AND THAT COMMUNICATION IN A SECOND LANGUAGE (ENGLISH) BE INCREASED WITHIN THE COMMUNITY.

RECOMMENDATION #11

EDUCATION

WE RECOMMEND THAT TRAINING IN ADMINISTRATION AND RELATED BUSINESS ADMINISTRATION BE INITIATED AT THE COMMUNITY LEVEL.

RECOMMENDATION #12

HEALTH

WE RECOMMEND THAT AN EXTENSIVE PROGRAM BE INITIATED BY A REPUTABLE UNIVERSITY TO CONDUCT TESTS ON WATER, SOIL, AIR, AND ROCK TO DETERMINE IF ANY NATURAL CHEMICALS IN THESE RESOURCES CAN CAUSE DISEASES PREVIOUSLY UNDETECTED. ALSO THAT THIS REPUTABLE UNIVERSITY CONDUCT HEALTH TRAINING AT THE COMMUNITY.

RECOMMENDATION #13

CONSULTATION

OUR FINAL RECOMMENDATION WILL BE THAT GOVERNMENT (FEDERAL, PROVINCIAL, NATIVE, URBAN) CONSULT THE DEER LAKE BAND AND COMMUNITY IF THESE GOVERNMENTS PLAN TO INITIATE POLICIES THAT WILL DIRECTLY AFFECT THE COMMUNITY BEFORE THESE POLICIES ARE IMPLEMENTED.

## CONCLUSION

THIS IS OUR SUBMISSION TO YOU, MR. COMMISSIONER.

WITHIN THE BRIEF TIME THAT WE HAVE ESTABLISHED A WORKING RELATIONSHIP WITH YOURSELF AND YOUR COMMISSION MANDATE AND THE BRIEF TIME WE'VE HAD THE OPPORTUNITY TO EXAMINE A SMALL PORTION OF OUR ENVIRONMENT, WE REALIZE THAT THE END IS NOT HERE BUT, BASICALLY, THE BEGINNING.

FOR THE BRIEF TIME OF TWELVE WEEKS, YOUR P.I.S. PROGRAM WAS ALLOCATED TO US TO BRING RECOMMENDATIONS FOR YOUR MANDATE; WE APPRECIATE, HOWEVER BRIEFLY, THE TIME SPENT TO MAKE US MORE AWARE OF OUR CONCERNs. IT IS A FACT THAT WE DO NOT HAVE THE PERSONNEL, EXPERTISE AND THE TECHNICAL KNOW-HOW THAT OTHER COMMUNITIES AND URBAN CENTRES ARE ABLE TO UTILIZE AT WILL. YOUR P.I.S. PROGRAM HAS GIVEN US AN INSIGHT ON OUR FUTURE INTENT. TIME, FUNDS AND PERSONNEL HAVE NOT ALLOWED US TO TRANSLATE OUR REQUIREMENTS IN THIS SUBMISSION. WE DESIRED TO MANIFEST THESE CONCERNs TO YOU IN A MORE PROFESSIONAL MANNER.

YOU WILL NOTE IN OUR RECOMMENDATIONS THAT THESE RECOMMENDATIONS COVER A BROAD SCOPE OF INTENT AND DO INCLUDE THE NATIVE, URBAN, PROVINCIAL AND FEDERAL GOVERNMENTS. YOU CAN APPRECIATE THAT OUR COMMUNITY LIES IN THE JURISDICTIONS OF NATIVE, URBAN, PROVINCIAL AND FEDERAL GOVERNMENTS. MR. COMMISSIONER, WHEN YOU DO MAKE RECOMMENDATIONS ON OUR BEHALF, REMEMBER THAT THESE GOVERNMENTS HAVE HAD AMPLE TIME AND RESOURCES TO PROGRESS TO WHERE THEY ARE TODAY. IT WILL TAKE SOME TIME FOR THE COMMUNITY, THROUGH TRIAL AND ERROR TO BE A SELF-SUSTAINING COMMUNITY. OUR MISTAKES IN THE NEXT FEW YEARS SHOULD NOT BE LOOKED UPON AS HOPELESS AND REQUIRING A MATERNALISTIC RELATIONSHIP. EVEN AFTER YEARS OF EXPERIENCE IN THE FIELD OF SOCIAL PROGRAMS, WE CAN SEE THAT GOVERNMENTS DO COME UP SHORT ON PERFECTION. IT WOULD BE UNREASONABLE TO ASSUME THAT THE DEER LAKE BAND WOULD START OFF IN PERFECTION.

IT WOULD APPEAR YOUR RECOMMENDATIONS ON OUR BEHALF TO GOVERNMENT ARE OF A MAJOR IMPORTANCE TO OUR COMMUNITY. WE HOPE YOUR RECOMMENDATIONS IN THIS REGARD MANIFEST POSITIVE RESULTS FROM GOVERNMENT.

THE DEER LAKE COMMUNITY WOULD LIKE TO EXPRESS TO YOU AT THIS TIME, MR. COMMISSIONER, YOUR ACCEPTANCE OF OUR BRIEF SUBMISSION AND THANK YOU FOR THE OPPORTUNITY YOU HAVE GIVEN TO THE DEER LAKE BAND AND COMMUNITY TO BE HEARD IN THE JUNGLES OF BUREAUCRACY.

CHIEF

Douglas Meekis

COUNCILLOR

Ernie Meekis

COUNCILLOR

Bill Rae

ELDER

Wesley Meekis



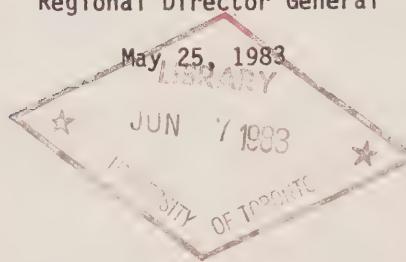
Filed May 25 1983



SUBMISSION  
BY  
ENVIRONMENT CANADA, ONTARIO REGION  
TO  
THE ROYAL COMMISSION ON THE NORTHERN ENVIRONMENT  
(PROVINCE OF ONTARIO)

Submitted by

H.L. Ferguson  
Regional Director General



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## 1.0 INTRODUCTION

Environment Canada is charged with preserving the quality of the natural environment for the benefit of all present and future Canadians. In carrying out this mission, we act as advocates for the environment with the public, other federal departments, provinces and municipalities. Our concerns in northern Ontario relate to economic and natural resource development, often involving large scale activities with potentially significant environmental and social effects.

The federal government is an important presence in the north, with interests in a wide range of programs and services. Within its own sphere of influence, Environment Canada conducts programs relating to environmental research, public information and advice, provision of services related to weather and water, and resource management in wildlife and forestry.

This submission is intended to emphasize the importance Environment Canada places on the environmental impact of decisions made for the north and to demonstrate how the department is likely to be involved in most major development decisions. In order that the Commission may better understand the way in which Environment Canada works as a federal department, we have outlined our programs and resources in Ontario, with particular emphasis on the north. We hope that this information will be of value to the Commission and the people of northern Ontario in understanding the nature and extent of the federal environmental presence in this area. We also wish to stress the open and continuing evolutionary nature of Environment Canada's policies and programs, and the opportunity for significant contribution by the Commission and the public in shaping the future direction of these efforts.

## 2.0 ENVIRONMENT CANADA'S MANDATE AND MISSION

Environment Canada's programs and activities are exercised in the context of the following statement of the department's broad mission:

To foster harmony between society and the environment for the economic, social and cultural benefit of present and future generations of Canadians.

The department's mission is derived from various sources. It is based upon the constitutional division of powers between the federal and provincial governments as set out in the British North America Act and in the Constitution Act (1981) of the Canadian Parliament. It is also based on legislation passed by the Parliament of Canada, and on more specific statements about the department's purpose and objectives

that have been made by the Minister of the Environment and the department's senior officers.

The Constitution Act of 1981 reflects the clear jurisdiction of the provinces over land, forests and most aspects of natural resources within their boundaries. The federal government retains jurisdiction over certain other areas, such as Indian lands, the Territories, national and historic parks, national wildlife areas and migratory bird sanctuaries. The federal government also has authority over coastal and inland fisheries, oceans, navigation and shipping, transboundary and international matters, including migratory birds. The nature of environmental issues is such that, in many areas, federal and provincial governments share jurisdictional responsibility.

The Government Organization Act of 1970 created Environment Canada. The Act transferred to the new department responsibility for many of the functions of the federal government that had previously been divided among several departments. These include fisheries, forests, water, air pollution control, the land inventory program, wildlife and meteorology. The Government Organization Act was revised in 1979. The revised Act charges the Minister of the Environment with responsibility for all matters over which Parliament has jurisdiction relating to the preservation and enhancement of the quality of the natural environment not assigned to any other federal department or agency. This responsibility includes the provision of advice to other federal departments and agencies in carrying out their environmental responsibilities. The Minister may, with the consent of Cabinet, issue guidelines for their use. The Minister is required to cooperate with provincial governments and agencies or any bodies, agencies, or persons in any programs which promote and encourage the institution of practices and conduct leading to the better preservation and enhancement of environmental quality.

In April 1979, a new department of Fisheries and Oceans was created from the Fisheries and Marine component of Environment Canada. Parks Canada became part of Environment Canada in June of that year, bringing under the environmental mandate the system of national parks and historic sites and monuments.

Legislation passed by Parliament and currently assigned to the Minister of the Environment includes the Canada Water Act, the Canada Wildlife Act, the Clean Air Act, the Environmental Contaminants Act, the Forestry Development and Research Act, the Game Export Act, the International Rivers Improvements Act, the Migratory Birds Convention Act, the National Parks Act, the Historic Sites and Monuments Act, the Ocean Dumping Control Act, and the Weather Modification Information Act. The department is also responsible for administering the pollution control provisions of the Fisheries Act, and for providing specific advice and information under certain sections of federal legislation assigned to other federal departments (such as the emissions provisions of the Motor Vehicle Safety Act).

This submission does not contain a summary of the main provisions of the legislation administered by the department. This information is available upon request. However, later sections of the submission describe Environment Canada's regional programs and activities which are developed on the basis of the department's legislative authority and mandate.

### 3.0 MAJOR DEPARTMENTAL POLICIES AND STRATEGIES

To accomplish its legal mandate and mission, Environment Canada pursues four objectives:

1. To ensure that human activities are conducted in a way that will achieve and maintain a state of the environment necessary for the health and well-being of man, the health and diversity of species and of ecosystems, and the sustained use of natural resources for social and economic benefit;
2. To conserve and enhance Canada's renewable resources of water, land, forests and wildlife and their related ecosystems, and promote their wise use in a sustainable manner for social and economic benefit;
3. To facilitate the adaptation of human activities to the environment;
4. To protect for all time those places which are significant examples of Canada's natural and cultural heritage and encourage public understanding, appreciation and enjoyment of this heritage in ways which leave it unimpaired for future generations.

Environment Canada is in the process of developing umbrella strategies for each of these four objectives. Two of the strategies, natural and cultural conservation, and environmental quality, have been prepared and are presented in the Environment Canada documents - Parks Canada Policy (1979) and Environmental Protection Service Strategic Plan (1982). Umbrella strategies for the departmental objectives dealing with renewable resources conservation and adaptation of human activities to the environment are to be completed by the spring of 1983.

The four departmental objectives and the umbrella strategies for their attainment provide the framework and specific guidance for the development and implementation of all Environment Canada's policies, programs and activities.

#### 4.0 ENVIRONMENT CANADA - ONTARIO REGION

Environment Canada is currently structured into six (6) service components, five (5) regional responsibility centres, and a Corporate Planning Group, each with its own defined areas of responsibility. Ontario Region is one of the five regional responsibility centres.

The department is comprised of five major operational components or "services": Parks Canada (Parks), the Canadian Forestry Service (CFS), the Atmospheric Environment Service (AES), the Environmental Conservation Service (ECS) and the Environmental Protection Service (EPS). The remaining service, the Finance, Personnel and Administration Service, is not described in this submission. Each of the national components is headed by an Assistant Deputy Minister (ADM). A Regional Director General (RDG) acts as the senior corporate spokesman in Ontario. The RDG reports directly to the Deputy Minister and is a member of the department's Senior Management Committee, which sets goals, determines policy and priorities, and allocates the resources of the department.

In total, Environment Canada's resources in Ontario for the 1982/83 fiscal year included 2,680 person years and \$144 million. These were approximately evenly distributed between regional resources, and national research institutes and Headquarters resources located in Ontario.

##### 4.1 The Role of the Regional Director General

The Office of the Regional Director General was established in each of Environment Canada's five regions in 1979; the RDG has assumed a key role in departmental operations since that time. The position of RDG reflects the decentralized nature and structure of Environment Canada, as well as the need for efficient operations and the growing importance of federal/provincial relations.

The RDG has both line and staff responsibilities. The line responsibilities include the management of designated "integrated" (i.e. cross-service) programs, and the department's involvement in the Environmental Assessment and Review Process; the management of regional offices of the Environmental Protection Service and Regional Lands Unit; and the management of support services, including public information, personnel, capital acquisition and certain aspects of finance and administration. The staff functions include the general conduct of departmental relations with the province; the coordination of all departmental responsibilities in Ontario; and the evaluation of current and future economic and social development policies and programs from an environmental perspective.

#### 4.2 Regional Programs and Activities

Environment Canada delivers a wide range of programs pertaining to land use, water quality and water resource management, wildlife, forests, the atmosphere, environmental protection and the preservation of the natural and cultural heritage of Canadians. These programs are closely related, directly or indirectly, to regional economic development. Direct relationships are apparent in CFS programs and certain Parks programs. Weather forecasting, climatic information, hydrometric and flood control data provided by AES and the Inland Waters Directorate of ECS provide support for operations and planning in key economic sectors such as agriculture, forestry, hydro-electric power generation, and transportation.

Other departmental programs ensure that federal economic development initiatives are influenced or regulated in a manner consistent with broad social/environmental objectives and concerns. Examples of such programs include the regulatory activities of EPS and the advisory functions of all Environment Canada's component services in relation to the federal Environmental Assessment and Review Process (EARP).

The following sections describe the objectives and programs of the various service components of Environment Canada. In particular, those departmental activities which occur in or relate to Ontario north of the 50th parallel are described.

##### 4.2.1 Parks Canada

Parks Canada is responsible for protecting, for all time, those places which are significant examples of Canada's natural and cultural heritage and for encouraging public understanding, appreciation and enjoyment of this heritage in ways which leave it unimpaired for future generations. The present elements of the program include: National Historic Parks and Sites, Historic Parks, Heritage Canals, and Agreements for Recreation and Conservation.

There are four National Parks, seven National Historic Parks, and three Heritage Canals in Ontario. New initiatives include a proposal for a National Park on the Bruce Peninsula; discussions with the province concerning the establishment of National Parks in the Atikaki area of northwestern Ontario and the Eastern Shore of Georgian Bay; a pilot project on the French River as part of the Heritage Rivers program; and discussions with the province on the acquisition of the Manitou Mounds prehistoric site near Rainy River. The intent is to establish the Manitou Mounds site as a National Historic Park in conjunction with the native people in the area.

There is only one Natural Historic Site presently designated north of 50° but Parks Canada will be investigating prehistoric sites

in several locations. Of particular interest are rock area (pictographs) sites and Shield Archaic Sites from the 5000 B.C.-1000 B.C. era.

National Parks are intended to represent examples of each of the 49 natural regions across Canada. North of 50°, there are two natural regions which include portions of Ontario: Region 18 - Central Boreal Uplands stretching from northeastern Alberta to western Quebec; and region 27 Hudson-James Bay Lowlands which arcs from northern Manitoba to northwest Quebec.

In consultation with the province, representative natural areas of Canadian significance (NACS) are identified within each natural region. In Region 18, the Atikaki-Blood vein area has been identified as a NACS. In Region 27, the Attawapiskat River-Akimiski - Twin Islands area is a NACS. Potential national parks are selected from among NACS based on many factors including size, representativeness, degree of impact, competing land uses and threats to natural resources, etc.

The Province of Ontario is currently undertaking a strategic land use plan to guide the future direction of its land holdings. Based on the results of the provincial planning exercise, if there is interest on the part of Ontario, Parks Canada will be prepared to review in more depth the national park potential of the above areas.

#### 4.2.2 Canadian Forestry Service (Great Lakes Forest Research Centre)

The objective of the Canadian Forestry Service is to promote the wise management and use of Canada's forest resources for the economic, social and environmental benefit of Canadians. The objective of the Great Lakes Forest Research Centre (GLFRC), located in Sault Ste. Marie, is to contribute to the solution of major forest management and forest environmental problems in Ontario through the conduct of a program of forestry research, development and related services.

Recently, CFS has been given administrative responsibility for the Forest Management Subsidiary Agreement in Ontario, and continues to play a key role in the forestry components of other Subsidiary Agreements. Additional resources have become available following the approval by Cabinet in September, 1980 of the Forest Sector Strategy, and subsequent approval of three separate Cabinet submissions pursuant to the Strategy in relation to research and development, forest renewal, and human resources.

The CFS has recently established a Regional Development Program which is directly concerned with improved forest management to help ensure the continued viability of the forest industry. This Program includes the CFS involvement in job creation and in federal-provincial

subsidiary agreements. The Research and Technical Services Program is concerned with developing environmentally acceptable techniques for forest renewal and management, and for minimizing losses from insects, diseases and fire. Other research dealing with acid precipitation and the Hudson Bay Lowlands is specifically directed toward environmental issues. In Northern Ontario, the forest industry assumes particular importance since it accounts for 75% of manufacturing employment.

The programs at the GLFRC have been designed to meet both national and regional needs, with the coordination of provincial interests achieved through the Canada-Ontario Joint Forestry Research Committee (COJFRC).

#### 4.2.3 Atmospheric Environment Service

The Atmospheric Environment Service is Canada's national weather service, responding to the needs of Canadians through its knowledge and study of meteorology. It is also concerned with many of the direct effects of the atmosphere upon the earth's surface, the oceans, the formation and movement of ice, and life in general. Its aims are to reduce the adverse effects of weather and to increase the benefits to be derived therefrom, while seeking to minimize the harmful effects of man's activities on the atmosphere.

AES objectives include contributing through the full application of meteorological and other environmental services to: the safety and security of life and property, the improvement of the national economy, the enhancement of the environment, and raising the quality of life of Canadians. The AES is made up of five program components which are: Weather and Sea State Services, Climate Services, Ice Services, Research, and Support Services.

In addition to issuing public weather forecasts for Ontario north of 50°N, AES provides area and terminal forecasts for aviation requirements as stated by Transport Canada. Again, in support of Transport Canada, AES issues marine area forecasts for James Bay and shipping corridors in Hudson Bay during the navigation season. Weather service information can be provided to all users by toll free INWATS to North Bay and Thunder Bay.

AES observation stations in support of the weather service program are maintained at Winisk, Moosonee, Big Trout Lake, Red Lake, Pickle Lake, Armstrong, Sioux Lookout and Lansdowne House. Non-real-time climatological data are also collected at several other northern locations although the network is less than ideal due to the difficulty in obtaining observers in northern locations.

For several years AES has been integrally involved in the management of Ontario's northern forests. By mutual agreement with the Ontario Ministry of Natural Resources, AES provides specially tailored

forecasts and advisory services in support of OMNR's northern forest fire control programs.

AES is more than a weather service. The federal responsibility for evaluating regional and national ambient air quality and for increasing man's knowledge of air quality processes such as chemical transformation, transportation and deposition lie with AES. Existing AES air and precipitation monitoring networks have been evaluated. As a result, a new network, called the Canadian Air and Precipitation Monitoring Network, has been designed and will be implemented in 1983. AES Monitoring stations at Pickle Lake and Moosonee will be part of the Canadian Network.

All modes of transportation (land, marine and air) are subject to weather and climate constraints. Potential hydrocarbon exploration and development in Hudson Bay would require environmental assessments, development of contingency plans, determination of appropriate environmental design criteria addressing wind, sea state, marine ice, structural icing, visibility, etc., and special site specific and area weather and marine forecasts. Pipelines have to be designed to withstand environmental constraints. Planned mining, smelting activities, and thermal generating plants must take into account environmental siting considerations and their effect on ambient and inter-regional air quality. Tourism, recreation and forest resources industries should consider the constraints and benefits of the natural environment. Further, traditional energy supply can potentially be supplemented by exploitation of solar and wind energy resources. The above can be evaluated through analysis of climatological data.

Climate and weather can at times be beneficial and at other times can be a hazard. In all instances, the impact of the environment on development and conversely the impact of development on the environment must be considered. It is desirable that the expertise of AES, where appropriate, be integrally involved in the planning and management of Ontario's northern resources.

#### 4.2.4 Environmental Conservation Service

The Environmental Conservation Service contributes to the preservation and enhancement of environmental quality and better renewable resource management through programs within the mandate of the department for inland waters, wildlife and lands. It acts to ensure long-run sustainability and quality in these areas through national programs for the planning and implementation of water resources development and water quality and quantity research, migratory birds conservation and protection, wildlife research and management, and the management and operation of a national land data bank.

The ECS is represented in Ontario by the Inland Waters Directorate, Lands Directorate and Canadian Wildlife Service.

Inland Waters Directorate

The Inland Waters Directorate is the federal lead agency for water management in Ontario. It plans and participates in national and international water management programs to achieve economic and social benefits, while giving full consideration to environmental concerns.

The primary role of IWD is to gather and disseminate water related information, and to explain and predict the behaviour of water quantity and quality in Ontario, with particular emphasis on the Great Lakes and their interconnecting channels. IWD plays a major role in water use planning and management investigations, including flood damage reduction programs in cooperation with the province, and in addressing international water management problems along the Canada-United States boundary. In addition, IWD has a research role in relating water management policies and programs to social needs and issues.

Inland Waters Directorate activities north of 50° latitude are carried out under three Inland Waters Directorate programs:

- Water Management Data
- Toxic Chemicals
- Baseline Studies

The purpose of the Water Management Data program is to provide accurate and comprehensive data on Canada's waters which will meet Canada's responsibilities under Federal-Provincial Agreements or serve the national interest.

Under a Cooperative Cost Sharing Agreement with the Province of Ontario (Ministry of the Environment, Ministry of Natural Resources, and Ontario Hydro), the Inland Waters Directorate constructs, operates and maintains a Federal/Provincial hydrometric network. Data collected are compiled and published by IWD on an annual basis. The network presently consists of 35 stations north of 50° latitude. Five stations have data collection platforms which permit transmission of real-time data by satellite to the user.

Beginning in 1983/84, the Inland Waters Directorate will be installing 350 data collection platforms (DCP's) over a 5 year period at remote stations across Canada to provide better services to data users and increase operational efficiencies. In Ontario, 30 DCP's will be installed at remote locations north of 50° latitude.

The objective of the Toxic Chemicals program is to provide information on the presence of toxic chemicals in the environment and

to obtain knowledge on their actual and potential impacts. To provide some of this information, Ontario Region is conducting surveys of the major rivers of the Hudson Bay Lowland to identify baseline levels of persistent organic and metal substances and to identify and enumerate benthic communities. Reports detailing the results are being prepared.

The purpose of the Baseline Studies program is to provide environmental knowledge and predictive capabilities which will ensure that federal decisions on major development proposals reflect environmental and renewable resource concerns. Under this program the Ontario Region operates a water quality network on five major tributaries to Hudson Bay to establish baseline conditions and provide a suitable data base for determining trends and the impact of future developments. Samples are collected at specific intervals and during events, such as runoff, by local citizens and Regional staff. Technical reports presenting the results are prepared.

The National Water Research Institute (NWRI) of IWD has done research in northern Ontario on the aquatic effects of acid rain and the ecological significance of acidic wetlands in relation to the aquatic ecology of nearby streams and lakes. The ecology of peatlands is not well known but is of major interest due to proposals for the large-scale use of peat for energy production in Ontario. NWRI has also participated in work on the sensitivity of coastal wetlands in the Hudson Bay Lowlands. The objective of this work, which will be continued in 1983, is to develop an understanding of sedimentological and ecological processes in support of future planning, development and protection of the shore and coastal zone of Hudson and James Bay.

#### Canadian Wildlife Service

The Canadian Wildlife Service meets federal responsibilities derived from The Migratory Birds Convention Act (1917) and the Canada Wildlife Act (1972). It administers programs in the areas of Migratory Bird Conservation and Wildlife Research and Interpretation, and contributes to Environment Canada's Acid Rain Program.

In Ontario, CWS is the agency responsible for the conservation of migratory birds and their habitats, although it cooperates closely with the province and non-governmental organizations in discharging that function. It conducts studies on other wildlife at the request of client agencies and provides advice on management and on interaction between human activities and wildlife to these agencies, the scientific community and the public.

Current CWS activities in Ontario include the preparation of a Waterfowl Management Plan, in cooperation with the provincial wildlife agency and hunter and naturalist organizations; monitoring the kinds and levels of toxic substances in fish-eating birds in the Great Lakes

basin; and consulting with other agencies and the local public in formulating management plans for National Wildlife Areas. CWS currently manages ten National Wildlife Areas throughout the province.

In discharging the functions described above, a number of activities are specifically directed toward northern Ontario (north of 50). About \$15K a year is spent on surveying breeding waterfowl populations in northern areas, with about four 100 km square blocks covered each year. This information is important for managing waterfowl populations continentally, and for establishing appropriate hunting regulations, both regionally and for Ontario and Canada as a whole.

Since the coastal zone of James and Hudson Bay is of critical importance for migratory birds, particularly waterfowl and shorebirds, an intensive CWS shorebird ecology/shorebird banding study has been conducted on the James Bay coast each year since 1974. Waterfowl inventories of the coastal zone are also conducted on a regular basis. Because of the importance of the Hudson Bay Lowlands, a five-year ECS Ontario Region baseline study was conducted (1977-1981) to provide detailed descriptive data about the ecosystems of the coastal zone, and to provide the department with a predictive capability in the event of major developments which could affect the James Bay/Hudson Bay coastal area. CWS served as lead agency for that study, and a final report is expected in the near future. As a result of the baseline studies a large number of publications have been produced, and a large data base assembled.

In recent years specific studies have been conducted on the waterfowl resources of a number of key coastal sites, as well as on the annual waterfowl harvests of resident Cree Indians. Harvest studies were carried out in cooperation with provincial governments. Two federal Migratory Bird Sanctuaries, the Moose River and Hanna Bay Sanctuaries, are located at the southern end of James Bay.

At the southern edge of the 'north of 50' region of Ontario, CWS Ontario Region has been carrying out detailed studies of the effects of boreal forest harvesting practices on populations of migratory birds and other wildlife. This is a 10-year study, initiated in 1979, designed to increase our understanding of the impacts of forest cutting over broad areas of northern Ontario, and to enhance migratory bird management efforts. From a forest management perspective our data are increasingly indicating that birds may play a significant role on the regulation of spruce budworm numbers.

#### Lands Directorate

The Lands Directorate promotes the effective and environmentally sound use of Canada's land resources. It supports and participates in

land related programs arising out of the Department of the Environment Act and associated government directives such as the Federal Policy on Land Use and the Federal Land Management Principle.

In Ontario the Directorate is responsible for various ecological research programs, land use inventories and monitoring programs in both rural and urban environments, as well as research on nationally significant land use issues such as wetlands and fruitlands. The Directorate is also responsible for the provision of services relating to the application of a computerized geographical information data base system for land management and planning programs.

Within these broad program areas, the Directorate has been or is currently involved in a number of programs in northern Ontario. In 1979, through a joint Federal-Provincial agreement, a program of forest ecosystem classification was initiated in the Clay Belt region. The program, which is funded through a \$300,000 DREE grant, has resulted in the publication of a field manual which assists local MNR and industry (Spruce Falls Power and Paper and Abitibi-Price) foresters in making key decisions concerning harvesting and silvicultural methods. The program is now being expanded into the remaining areas of the Northern Region and a start is being made on the program in the North Central Region.

The Directorate was also involved in the five-year (1977-81) ECS Ontario Region baseline study of the Hudson Bay Lowland. Lands Directorate scientists were responsible for an ecological classification and mapping of the peatland ecosystems in the coastal zone portion of the Lowland. Results and data are available in the form of papers and computer files.

In support of the international negotiations between Canada and the United States on Acid Rain, the Directorate has been responsible for a sensitivity mapping program for much of Eastern Canada. As part of this program, sensitivity maps for most of Ontario are now available at a scale of 1:1,000,000. In addition, a detailed soil geochemical survey was carried out by the Directorate in two areas of northern Ontario (Quetico-Thunder Bay and Blind River-Sudbury) during the summer of 1982. Results of this program are currently being analysed and evaluated. Finally, the Directorate has been involved in a detailed, small calibrated watershed study (Turkey Lake) examining the effects of acid rain on terrestrial and aquatic ecosystems. Scientists in the Directorate have studied and reported on the types of forest and soil ecosystems and mapped their areal distribution within the watershed.

The Directorate has been involved in a number of accessory studies as part of its involvement in the above programs. For example, extensive use of various remote sensing data (satellite and airborne) has been made and the application of such data in the areas of forest cover mapping and regeneration assessment studied. Finally, as a

result of the Directorate's extensive experience in northern peatland ecosystems, on-going discussions with the private sector regarding peatland survey techniques, data collection requirements and survey equipment requirements are provided. This expertise is of particular significance as interest in the utilization of northern peatlands as an alternate fuel source grows.

#### 4.2.5 Environmental Protection Service

The Environmental Protection Service (EPS) was formed to ensure that the federal government's responsibilities for the protection of the environment are carried out in a manner consistent with national policy and, where necessary, are enforced under appropriate legislation. It is the focal point for contact and liaison on environmental protection matters with corresponding agencies of the provincial governments.

EPS is involved in a number of national programs in Ontario. Programs related to Waste Management and Environmental Contaminants have so far not specifically looked at Ontario north of 50°. Other programs, such as the Environmental Emergencies Program, provide on-site assistance and advice on the clean-up and prevention of spills of toxic materials. Staff have responded to fuel spills at Sandy Lake, Kasabonika and Sachigo Indian Reserves. Northern fuel handling practices are currently being reviewed in order to develop a fuel handling training course.

The Water Pollution and Air Pollution Control Programs involve the preparation of emission inventories and the development of national guidelines and regulations under the Fisheries Act and the Clean Air Act. Guidelines and regulations applicable to industries in northern Ontario presently exist under the Fisheries Act in relation to "Pulp and Paper Mill Liquid Effluents" and "Metal Mining Liquid Effluents." These guidelines and regulations are being revised and updated in concert with provincial and industrial representatives. Socio-economic impact analyses and public comment will be included prior to finalization.

The most active EPS program affecting Ontario north of 50° involves the provision of environmental advisory services to federal agencies. EPS obtains, coordinates and directs provincial and federal environmental concerns and advice to federal agencies, and works closely with provincial officials and federal agencies to streamline requirements and minimize duplication of efforts.

Special attention is directed toward concerns involving native people and the northern environment. In this regard, EPS participates with Health and Welfare Canada and the Department of Indian and Northern Affairs in an "Environmental Task Force" which is developing a systematic approach to dealing with environmental issues on Indian lands. Assistance is being given in relation to feasibility studies

for community servicing at Kasabonika, Fort Albany, Poplar Hill, Deer Lake, Moose Factory Island, Big Trout Lake, Fort Severn, Attawapiskat, and Kashechewan Indian Reserves. Program emphasis is placed on training government and native community staff on sound environmental practices and the proper operation of pollution control facilities.

## 5.0 THE ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS

The Environmental Assessment and Review Process (EARP) was established by Cabinet decision on December 20, 1973, and amended by Cabinet on February 15th, 1977. It embodies Canada's policy on environmental assessment as it relates to the activities of the federal government. The Process is a means of determining in advance the potential environmental impact of all federal projects, programs and activities. The ultimate responsibility for decisions resulting from Process activities rests with the Minister of the Environment and his Cabinet colleagues.

Federal projects which fall under EARP include those initiated by federal departments and agencies, those for which federal funds are solicited and those involving federal property. This definition includes projects that may originate outside the federal government, but involve a particular federal department through funding or property considerations. All federal departments and agencies are bound by EARP with the exception of proprietary Crown Corporations and federal regulatory agencies which are invited, rather than directed, to participate in the Process.

The purpose of the Environmental Assessment and Review Process is to ensure that the environmental effects of federal projects, programs and activities are assessed early in their planning, before any commitments or irrevocable decisions are made. The human element must also be considered in terms of any environmentally-related social consequences. Activities with potentially significant environmental effects must be submitted to the Minister of the Environment for formal review by an Environmental Assessment Panel. Public reaction to a proposal is a major factor in determining significance.

A clear distinction must be made between projects, programs or activities which are formally referred to the Minister of Environment for review by an Environmental Assessment Panel, and those which are screened for environmental effects by the initiating federal departments or agencies and are not formally referred to the Minister. Projects that are referred to Panel review are those where the potential environmental effects appear to be significant. The Federal Environmental Assessment Review Office (FEARO) is responsible for the establishment of Panels and for the provision of secretariat support to the Panel. FEARO also has an administrative and audit function in relation to the EAR Process. The Executive Chairman of FEARO reports directly to the Minister of the Environment. FEARO is not

organizationally connected to Environment Canada, and operates independently of the department.

The bulk of EARP related activities occur on a day to day basis in the various federal departments and agencies. These departments and agencies are required to assess all their projects, programs and activities for environmental effects and public concern. Environmental Screening Guidelines are available from FEARO to assist them in their screening efforts. The EAR Process is largely based on the self-assessment approach which places the responsibility for the initial assessment of projects upon the initiating federal agency. These agencies are responsible for providing information on the project to the public, and obtaining public comment where appropriate. They are also responsible for the implementation of any mitigating measures identified during the environmental screening process.

Environment Canada is subject to the requirements of the EAR Process in respect to its own projects, programs and activities in an identical manner to that of other federal agencies. However, the department also performs an advisory role to federal agencies in general by the provision of environmental reviews and expertise. Closely allied to this advisory role is the department's mandate to provide federal leadership in environmental matters, and to assume an advocacy role in those instances in which environmental concerns are not being adequately addressed by federal agencies. This advocacy role has been considerably strengthened by Environment Canada's recently approved Public Consultation Policy which establishes the basis for a very open and continuing dialogue between the department and the public in relation to environmental issues.

A recent federal government reorganization of economic development departments under the Cabinet Committee on Economic and Regional Development has augmented Environment Canada's ability to perform its environmental advisory role with federal agencies. The reorganization has brought a provincial focus to federal economic development efforts. Economic leadership is provided in Ontario by a Federal Economic Development Coordinator (FEDC) who reports through the Ministry of State for Economic and Regional Development. The FEDC chairs a regional Council of the senior federal officials of departments located in the province. Environment Canada is represented on the Council by the Regional Director General of Ontario Region. The RDG acts as the senior corporate spokesperson for Environment Canada in Ontario, thus establishing a link between economic development efforts and environmental considerations.

Environment Canada strongly believes that revitalization of the Ontario economy can proceed hand-in-hand with a continued focus on environmental concerns. The EAR Process is seen as an essential component of the federal decision making process. Attached to this submission is a copy of a policy statement titled "Department of

Environment Role in the Federal Environmental Assessment and Review Process." This policy statement defines specifically the roles and responsibilities that the department assumes in relation to the entire EAR Process.

#### 6.0 SUMMARY

This submission has presented a brief outline of Environment Canada's policies and programs, and has described some of the activities of the department in Ontario north of 50°. The role which the department plays in relation to economic development efforts in the natural resource sector can be quite complex, depending upon the type of development proposed. This complexity reflects the varied nature of the mandate of Environment Canada which includes the operation of facilities such as weather stations and hydrometric stations, the management of natural resources such as migratory birds, the provision of financial assistance and information services to economic development agents, and the leadership role which Environment Canada exercises within the federal government in relation to environmental matters.

Each of these areas of involvement must reflect and be consistent with the department's Public Consultation Policy, which assures members of the public a regular and predictable opportunity to meet with Environment Canada officials to discuss environmental issues and concerns. The Policy also requires that all significant new regulations and guidelines be subject to an explicit procedure allowing for public comment at all stages of their development.

Environment Canada will unquestionably assume a strong role in regard to major economic development initiatives which involve the federal government in northern Ontario, or which might impact on the north. Examples of possible initiatives include oil and gas investigations and drilling in Hudson Bay, and the Polar Gas Pipeline proposal, both of which could have major environmental and social impacts if not properly designed. Environment Canada takes an active role in relation to major developments such as these by acquiring baseline environmental data and conducting research into poorly understood environmental interrelationships in northern climates in order to establish the proper information base upon which decisions can be made. When provincial and private initiatives are involved, and federal interests are not affected, Environment Canada can still play an important role in the provision of basic information and expertise.

We appreciate the opportunity to prepare a submission to the Royal Commission on the Northern Environment, and hope that the information presented is sufficient to allow a proper integration of federal environmental interests in the Commission's deliberations. Should any additional information be required, we would be pleased to provide it.

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Fort Severn Land Use and Occupancy Study,

PART 1

Physical Setting, Ecology, Prehistory and History  
of the Fort Severn Area and a Description of the  
Community of Fort Severn, Ontario

Jean-Luc Pilon

Department of Anthropology  
University of Toronto  
Toronto, Ontario

November 8, 1982

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Geology and post-glacial history

The modern community of Fort Severn Ontario, is located less than 5 miles from the shores of Hudson Bay, up the Severn river. It is situated within a vast physiographic province known as the Hudson Bay Lowlands. The over 300,000 square kilometers comprising the Lowlands share a common and distinctive surface geology which set them it apart from the Shield Region to the south and west(Bostock, 1970).

Most of the area comprising the Lowlands lies within the province of Ontario and a much smaller portion extends into Manitoba as far as Churchill. The Lowlands occur as a wide band along the southern coast of Hudson Bay, where it average 200 km in width, then swings south along the west side of James and reaches a mean width of 300 km. The bottom of James Bay is its southernmost boundary(G.S.C., Map 1254A).

For the most part, bedrock lies buried under a thick mantle of unconsolidated Holocene deposits. In the Fort Severn area, the river has exposed thick beds of Tyrrell Sea marine clays which are capped by fluvial sands and overbank sand-silt deposits. Much of the landscape away from the rivers is characterised by vast tracts of muskeg, swamps, fens, bogs and lakes. Other very distinctive features of the landscape are series of sand ridges rising above the wetlands. These ridges lie parallel to the shores of Hudson Bay. They run uninterrupted for miles and are found many miles inland. The modern community of Fort Severn is built on such a ridge. An impressive series of well defined ridges are located immediately west of Fort Severn between the Severn and Pipowatin rivers. This particular series can apparently be followed for quite a distance, as it was used as an escape route to Churchill by the Hudson's Bay Company employees of the first post on the Severn in 1690 when threatened by the French under Pierre Le Moyne d'Iberville(MacFie, 1970;42).

On the whole, though, the landscape is generally featureless save for the sand ridges and the deep valleys cut by the swift running rivers. In the Ontario portion of the Lowlands, only two major rivers flow north from the Shield; the Severn and Winisk rivers. The headwaters of the Severn are located over 300 miles to the south. Its major tributaries are the Sachigo and the Fawn rivers. The Severn itself is the outlet for Sandy Lake while the Fawn drains

Big Trout Lake.

The flatness of the land and the generally imperceptible slope reflect the flat-lying nature of the underlying Palaeozoic bedrock(Norris and Sandford, 1969). Just west of Fort Severn, the slope of the land is on the order of 6ft/mile. Bathymetric studies suggest that the major rivers draining the Lowlands are following ancient drainage patterns(Pelletier, 1969, Stockwell et al., 1976). These ancient rivers and the basin-like dip of the post-Cambrian rocks are oriented towards an area in western central Hudson Bay from where drainage would have proceeded northeastward through Hudson Straight.

For the entire Lowlands, there existed two major ancient basins which correspond to the modern Hudson and James Bays. These two basins are bordered by the pre-Cambrian Cape Henrietta Maria Arch. This formation is the only major relief feature of the Lowlands. Progressively younger Palaeozoic rocks are exposed by the Severn river as one proceeds north, beginning at the Shield/Lowlands boundary. This reflects the basin-like nature of the bedrock. There is a good correspondence between the junction of adjacent bedrock formations and the occurrence of rapids. One such rapids, the White Seal Falls, is located 28 channel miles upriver from the coast of Hudson Bay. As most of the Palaeozoic rocks are limestone or dolomites, the designation Limestone Rapids is a common one on Lowlands rivers.

The modern characteristics of the Lowlands are the result of the dip and flatness of the underlying bedrock and the nature of post-glacial events. Unlike areas further east and west, the area around Fort Severn was never flooded by pro-glacial lakes since the area remained covered under glacial ice(Craig, 1969). Sometime around 8,000 years ago, a breach in the ice mass between Hudson Straight and the Lowlands was made whereby the sea initially penetrated into the James Bay area. With further wasting of the rapidly shrinking ice masses towards centres located in Quebec and the Keewatin District of the NorthWest Territories, the Tyrrell Sea spread westward over much of the Lowlands. In the Severn area, the upper limits of this marine incursion are in the 400 to 500 feet elevation range(Lee, 1969). Over this huge area, covered by the Tyrrell Sea, thick beds of marine clay were layed down. By 7,000 years ago, glacial ice is presumed to have virtually disappeared.

As the retreat and final disappearance of the continental glacier progressed, water that had been locked up for centuries was returned to the sea. The earth's crust which had been under the ice, also reacted to the new load conditions. Eustatic sea level rise 8,000 years ago was on the order of one meter/century(Craig, 1969;70). On the other hand isostatic rebound was initially quite rapid but has been decelerating ever since. Present rates have been calculated at Poste-de-la-Baleine, Cape Henrietta Maria and Churchill. They are respectively 1.3m/century(Hillaire-Marcel,

1976), 1.2m/century (Webber et al., 1970) and 0.7m/century (Craig, 1969). Extrapolation from these and other data points suggests that the present rate of rebound in the Fort Severn area is on the order of 0.9m/century. Considering the fairly uniform slope of the landscape and the rapid rate of rebound, the emerging coastal plain, that is the Lowlands, is continuously expanding. In the Fort Severn area, a strip averaging about a half mile is added to the coast every century.

#### Cheniers

The sand ridges, which constitute a fairly distinctive feature of the coastal tundra belt, rather than simply being old beach lines, now stranded because of isostatic rebound, appear to be geomorphic features known as "cheniers" (Reineck and Singh, 1973). Cheniers, as opposed to stranded beach ridges, can be indicators of climatic change. These features occur under specific conditions and have been observed in a very limited number of cases. The best known are those of the Mississippi Delta.

The general conditions under which cheniers form include specific relationships between the amount of sediment discharged into the coastal zone, the strength of the longshore currents and the slope of the nearshore area. Basically, under conditions of high sediment discharge by a river into a coastal zone possessing a gentle slope, a threshold is reached at which the longshore currents are

unable to sort the sediments into their finer and heavier fractions and thus form a normal beach. In such a situation of high sedimentation, broad flat tidal flats are formed of unsorted deposits. A reduction in the total amount of sediment reaching the nearshore zone allows the longshore currents to rework, sort and thus form characteristic sand ridges which lie parallel to the coast and are deflected up river at estuaries. These have steep fronts toward the sea and gently sloping rears. Resumption of high sediment conditions reinstates the broad flat unsorted deposition. Over centuries, the result is a series of sand ridges unequally spaced with broad flat marshy areas between.

In addition, there appears to be a correspondence between the formation of cheniers and the occurrence of multi-channel river outlets. This suggestion is the result of inspection of aerial photographs and the observation in the field that the many islands in the Severn river between its mouth and the White Seal Falls are the result of channels being cut around them rather than the build up of channel deposits into islands . The suggested correspondence needs further development and investigation. The kinds of conditions which could lead to the development of cheniers, would include a reduction in the volume of the Severn. Such a reduction of volume and thus in river level could also be responsible for the creation of multiple-channel river mouths.

It is of great interest to note the possible correspondence with climatic events known to have occurred in the Keewatin District since deglaciation. In particular, a number of palynological sites have shown that following deglaciation, there was a rapid advance of the boreal forest up to 400km north of its present limits(Nichols, 1975). The tree line today is controlled by the "10°C isotherm for the warmest month", i.e. the "summer position of the Arctic Front"(Nichols, 1975;161). Since then the tree-line has retreated its present position. However this retreat was not gradual but often took place by quite rapid jumps. Such major shifts southward occurred at about 4800 B.P.(before present) and again at 3500 B.P. Other less important movements occurred at 1500 B.P. and 500 B.P.

With a southern shift of the Arctic air mass' summer position, a cold and dry climate would prevail, one that could result in a reduction in the volume of water in the Severn, hence a reduction in the total amount of sediment being brought to the nearshore zone, and thus conditions conducive to chenier formation and the formation of multi-channelled deltas. This hypothesis remains however to be adequately demonstrated.

Other than river erosion, chenier formation is the most important geomorphic process active in the Lowlands today. The presence of "raised beaches" at the 400 foot contour level (56° 15'N-89° 55'W) suggests that it has been major

modifier of the landscape ever since the Tyrrell Sea began receding.

### The Severn River

Another very important geomorphic agent is the Severn river. As pointed out earlier, the headwaters of the Severn are many hundred miles to the south of its outlet into Hudson Bay. As a result, break-up occurs much earlier at the headwaters. Large volumes of water thus flow northward to the still frozen river mouth. Ice dams are formed, behind which huge volumes of water accumulate. As a result the river level rises phenomenally. In front of Fort Severn, the water has come to within 5 to 10 feet of spilling over the edge of the steep embankment upon which the community is located(C.Burke,H.B.C.store manager, personal communication). Elsewhere, at lower elevations, sediments settle out of the backed up and stilled waters. Occasionally, even the higher embankments are topped. Levees are thus formed and often exhibit an alternation of sand-silt and humus layers when exposed by erosion. The steep embankments, along the river, are made up of thick basal clay beds with fluvial sands overlaid. At Fort Severn these cliffs are 35-50 feet above the waters of the river. At the foot of the White Seal Falls, they are in the range of 60 feet in height. The spring water levels attack the clay and sand deposits often causing massive erosion of the embankments and slumping.

During more normal summer conditions, the Severn can be

characterised as a broad, swift and in many places shallow river. Because of its swiftness, it is not given to meandering but rather flows along a fairly straight course. Within its bed, the channel sways from one side to the other but these shifts are relatively minor. As a result, embankments are kept nearly vertical by constant erosion. The area at the foot of the White Seal Falls, known as Ouaouias-tine, is actually a now by-passed meander loop. In fact, a still older meander phase is visible on aerial photographs. The impetus for meandering to occur here is likely linked to the presence of outcropping Silurian limestone. When the mouth of the Severn emptied into Hudson Bay at this point about 3000 to 3500 years ago (this age estimate results from the combination of the present isostatic rebound rate and the elevation above sea level of the surrounding terrain), three separate channels divided the waters of the Severn (these are clearly visible to the west of the present channel on aerial photographs). At this point the limestone was still buried beneath thick clay deposits. With time and isostatic rebound, the river cut into these clays and eventually impinged upon the bedrock. Such impingement causes rapids and thus a reduction in the velocity of the river, behind the rapids. This resulted in two major meander phases and the abandonment of the two western channels.

#### Climate

Weather patterns in southern Hudson Bay are principally

controlled by two factors: water temperature and the persistence of Ice in Hudson Bay as well as upper atmospheric circulation patterns(Chapman and Thomas, 1968, Thompson, 1968). These combine to produce a climate over Hudson Bay and its surrounding littoral zone which is Arctic in nature:"Essentially then, Hudson Bay and its environs have a typically Arctic climate. A few miles inland, however, along southern and southwestern shores, the unforested coastal plains are replaced by wooded country of the sub-Arctic"(Thompson, 1968;267).

Upper atmosphere circulation patterns generally result in northerly and northwesterly flows of cool dry air over Hudson Bay. During the warm summer months, the southernmost boundary of the Arctic Air Mass shifts northward. Along the boundary, the moist southern air causes much cloudiness and precipitation as it meets the cool Arctic Air. However, the cool temperatures of the waters of Hudson Bay along with the large quantities of melting ice present until late in the summer "...tend to inhibit shower development...summer rainfall is quite variable"(Thompson, 1968;282). Fog is a very common phenomenon along the coastal zone, resulting from warm moist southern air contacting the cool waters and ice of Hudson Bay or cooler northern air penetrating further south and contacting the warmer river waters.

Fall is the most turbulent period of the year as the cool Arctic Air Mass moves south and contacts the now rela-

tively warm Bay waters:"As a result, October and November(November and December in the south)are the months of greatest snowfall ,maximum cloudiness and strong east winds"(Thompson, 1968;269).

With the freezing over of Hudson Bay sometime in December the weather becomes consistently clear and cold. "Although low temperatures are not as extreme as in many continental areas, the persistent winds combine with the cold to make this the coldest part of Canada on the basis of wind chill"(Thompson, 1968;284).

The transition from winter to summer occurs late, compared to more southerly areas, and is underway in May. With the opening of leads on Hudson Bay and the northern shift of the Arctic Front, and thus the penetration of warmer moist air from the south,fog and cloudiness become frequent once again.

The persistence of pack ice in southern Hudson Bay until quite late has already been alluded to. This is due to the combination of a shallow coastal shelf in southern Hudson Bay and the counterclockwise circulation within the basin which results in much of Hudson Bay's ice being brought down to the bottom of the Bay where it is found until as late as August(Danielson, 1971, Larnder, 1968). Wind patterns undoubtedly also play an important role in directing ice movements.

### Vegetation

The combined effect of these climatic factors along the coastal zone of northern Ontario is a yearly climatic cycle which is dominated by the harsh effects of the Arctic air mass. This climatic situation, which is unique in Ontario, is responsible for a similarly unique coastal ecological zone. The present community of Fort Severn is located within this coastal tundra zone.

In the Northwest Territories, the tree-line is controlled by the 10° C isotherm for the warmest month. In northern Ontario, as pointed out above, the climatic factors responsible for the Arctic-like coastal environment are more complex and involve additional variables such as wind. A result of this situation is an equally complex vegetation pattern throughout the area(Bates and Simkin, 1969, Sims et al., 1979). It is therefore difficult to speak of a tree-line per se as the transition from coastal tundra to inland forest is far from distinct, as a number of large scale maps suggest.

In the immediate coastal strip, a true tundra exists. Within this coastal tundra, two major division, which reoccur further inland, can be described. These divisions reflect the local drainage patterns which in turn relate to the unique geomorphic processes operating in the Lowlands:cheniers formation. The sand ridges support lichen-heath plant communities while the inter-chenier

swales are dominated by sedge communities(Larson and Kershaw, 1974, 1975, Kershaw and Rouse, 1973). Even within this simple division consistent minor trends are observable. Recently emerged ridges, for example, will only support certain plant species until the salinity is leached from the soil(Pierce and Kershaw, 1976). With time, peat as well as different nutrients and minerals accumulate on the progressively older ridges allowing the successful implantation of different communities. The prevalence and harshness of winds coming from Hudson Bay result in hardier varieties at the front of the ridge. In the swales away from the actual shore, dwarf birch and willow are present. Further inland , spruce, both white and black, as well as tamarack appear on raised sand ridges. Initially , the trees are solitary and bear witness to the harshness of the north winds by lacking branches on the north side. Arboreal cover becomes denser yet further inland but always remains part of an "open" forest. Here as well, the wet, poorly drained swales continue to be dominated by sedges with dwarf birch, willow and tamarack becoming important. The evolutionary succession of plant communities would appear to be gradual and subject to internal division. Actually this is not quite the case. In the first place, the sand ridges are not equally spaced, nor are they always continuous and parallel to the coast. Often, long vegetation islands are found.

Secondly, rivers and streams seriously affect the inland development. Good drainage is found along old stream

banks, levees and islands. As a result, continuous open forest cover over thick moss and lichen carpets is encountered earlier along river banks and on islands.

Thirdly, poplar stands constitute an historically interesting vegetation type which warrants special mention. In the Fort Severn area, it is by no means a dominant species, yet in certain specific locales it is virtually the unique species: the southern end of Partridge Island, Sugar Island as well as the island directly south of the settlement and the shore behind this island as well as at least one spot on Ouaouiastine, all have large stands of poplar. These are all areas that have been logged over for firewood within perhaps the last 150 years. Poplar is thus a colonizer of recently deforested areas. The sites near Ouaouias-tine reflect the clearing of areas for encampments within a coniferous forest.

Finally, other plant communities have been observed. For example, low lying lateral sediment bars along the Severn river support fairly unique combinations of willow, dwarf birch, some poplar and sedges. Apparently similar plant communities, within recent oxbows, have also been noted. These undoubtedly reflect the fact that these areas have relatively recently emerged from the waters of the Severn.

In summary, vegetation patterns in the immediate coastal zone are controlled principally by climatic factors.

Further inland, drainage appears to play a more important role. This synchonic simplification can equally be extended back through time. Initially, the vegetation patterns on a particular beach are controlled almost completely by climatic factors, and, as the coast progrades and the shore becomes more distant, climatic factors diminish as sole controls and drainage becomes more important. This will become a significant consideration when examining and evaluating inland archaeological remains.

Given such a situation of ecological diversity, it is reasonable to expect a wide range of animal resources to inhabit the area. This indeed appears to be the case. The diversity of animal species reflects the diversity of micro-habitats. It also affirms both the arctic nature of the coastal zone, and the increasingly sub-arctic character of the inland area as one moves away from the coast.

#### Animal Resources

##### 1. Sea mammals

The study of sea mammals in the Fort Severn area is not well developed. However, some species are known to frequent the area either seasonally or permanently.

Before the advent of the snowmobile, beluga were extensively hunted as dog food at the mouth of the Severn River(C.Burke, personal communication). In the spring, pods of white whale would enter the estuaries to feed on stocks

of fish(such as whitefish and brook trout) which descend to feed in these same areas (M.N.R.,1977;28, Sergeant, 1968).

Seals are present along the southern coast of Hudson Bay in considerable numbers. Three species are probably present in the Fort Severn area: ring seal, bearded seal and harbour seal(Mansfield, 1963,1968). Winter ice conditions likely reduced local availability of these species as they may move to deeper waters but they are known to enter the Severn River in summertime and have been hunted up to 8 miles in from the coast, as they lay hauled up on sand bars(David Matthews,local resident, personal communication). The last rapids on the Severn, 25 miles from Fort Severn, bear the name of White Seal Falls and this may well document the past use of the lower Severn by seals. It has been reported that sealskin was a preferred raw material for the manufacture of dog team harness in the past(Dawson, 1976;79). People from God's Lake and Ogoki would travel to the coast to acquire sealskins for this purpose.

Lastly, the least known sea mammal, walrus, has been observed in important numbers north of the mouth of the Brant river to the east of Winisk (M.N.R., 1977;31, Mansfield, 1968). No such occurrence has been reported in the Fort Severn region.

## 2. Land mammals

The list of land mammals inhabiting the area is lengthy

and requires little additional comment. Most or all of these are of obvious value to the people of Fort Severn because of their skins and their meat. Although specific lists are unavailable, the following combines information obtained from local residents as well as documentation from nearby Polar Bear Provincial Park(MacPherson, 1968, M.N.R., 1977): beaver, mink, marten, otter, porcupine, muskrat, timber wolf, arctic fox, red fox, ermine, hare, least weasel, fisher, wolverine, lynx, skunk, black bear, polar bear, ground hog, moose, caribou.

The last two named species warrant specific remarks as they are important subsistence elements in pre-contact and contact diets. Actually, moose can reasonably be discounted as an important species in this area because it is only occasionally spotted up river and its penetration into Ontario north of Lake Superior appears to be a very recent nineteenth century phenomenon(Peterson, 1955;17 figures 6 and 7). Caribou, on the other hand have probably been in the Lowlands for thousands of years. Within recent times however, the caribou herds are known to have experienced very dramatic and rapid population crashes. These historic events may be linked to a combination of factors which include natural population cycles, increased exploitation of coastal herds in order to stock coastal trading posts with winter provisions and the introduction of fire-arms. It is unlikely that any one factor was determinant, but rather the coincidence of these and perhaps others caused the extreme

fluctuations.

With regard to historic population densities of caribou herds, references to herds numbering in the thousands are recorded (Bishop, 1974;318) and today herds numbering in the hundreds have been reported. Furthermore, caribou range studies indicate that the Lowlands have the highest potential carrying capacity for caribou in Ontario(Ahti and Hepburn, 1967). The coastal tundra strip has a carrying capacity of 50 head/100 square miles while the adjacent Northern Lichen Belt could support 74 head/100 square miles.

The seasonal movements of the caribou are especially important as this relates to their exploitation by hunting groups. Unlike caribou further south in Ontario and in central Québec, these populations have access to the coastal tundra strip. Their yearly migrations bring them out of the forested inland areas in the spring. Along the coast, they have ready access to the lichen resources of the raised sand ridges. In this coastal tundra zone, they are almost constantly exposed to the winds blowing off Hudson Bay, which have a salutary effect by reducing the clouds of flying/biting insects which would plague the herds in the forest.

Movement of caribou herds onto the coastal tundra may begin as early as late winter when snow accumulation makes it more difficult to reach the ground lichens in the forest. The sand ridge lichens on the other hand are often exposed

by the winds(Larson and Kershaw, 1975). In spring, the numbers of caribou moving towards the coast increases, especially when insects make their reappearance. Over the course of the summer, small herds are formed. During the summer of 1981, a herd of near 1000 head was spotted near the mouth of the Niskibi river, west of Fort Severn. This seems to be an exception rather than the rule. The largest aggregation of caribou occurs in the fall just prior to the rut and during subsequent movements inland to wintering areas within the forest. Recent information collected in the Fort Severn area suggests that caribou movements are oriented on a general N-S axis but within areas bounded laterally by larger rivers and well within the Lowlands.

The caribou of the Lowlands exhibit behavioural characteristics of the Barren Ground variety, yet are said to be Woodland Caribou. It has been suggested that a third variety existed in the Churchill area(Russell, D., 1975). The migration pattern of these animals would have been the inverse of the Barren Ground caribou. Peterson(1957) indicated that, in the recent past, Barren Ground caribou may , have been found in Ontario as far east as Cape Henrietta Maria. Although Peterson's evidence is tenuous, it may be reasonable to envisage splinter groups from the Kaminuriak herd(a major herd summering in the Keewatin and wintering south of Churchill) following the coast of Hudson Bay east instead of heading north in the spring. The work of biologists in Québec-Labrador suggest that behaviour may be an

awkward criterion to use in distinguishing caribou varieties(Simard, 1979). The Lowland caribou would tend to support this conclusion.

Probably as a result of the presence of seals in southern Hudson Bay, polar bears are also found here. The Ontario polar bear population has been estimated at about 200 animals (M.N.R., 1977;33). Ontario polar bears appear to form a discreet population and have adapted to the southern Hudson Bay region by developing certain unique behavioural patterns. The first is the construction of resting pits or dens in summer, apparently to escape from the heat(M.N.R., 1977;33). These pits are up to 10 feet across and depths of 20 feet have been recorded. In the fall, pregnant females move inland where they construct dens in which to cub. The polar bears spend most of their time out on the ice hunting seals at open leads. Once the ice breaks-up and until freeze-up, they subsist principally on grasses, sedges, berries and scavenged carrion(Russell, R.H., 1975). Polar bear is occasionally hunted today in the Fort Severn area.

### 3. Birds

Perhaps the most spectacular class of animal to frequent the Hudson Bay Lowlands is birds. Only one resident species can be said to be of any possible subsistence value; willow ptarmigan(see for example MacFie's(1970:44) account of the importance of ptarmigan to the Hudson's Bay Co. men

in the winter of 1770). Migratory waterfowl, however, are present in a great array of species and are numerous. The coastal tundra strip of the Lowlands lies on the flyway of a number of Arctic nesting ducks and geese(Cooch, 1969, Snyder, 1957). During the spring, their stop is relatively brief, time enough to form mating pairs and either continue their northern journey, which most do, or nest in the Lowlands. These include loons, ducks and geese. The following species presently range throughout the study area in summertime: Common Loon, Arctic Loon, Red-Throated Loon, Snow Goose, Blue Goose, Old-Squaw, Common Eider, King Eider, Sandhill Crane. The pintail and the Canada Goose have important nesting areas in the vicinity of Fort Severn. As the many requirements of each species, in terms of the type of landscape etc., varies considerably from one species to the next, so do the relative numbers and distribution of each species within the Lowlands.

At the end of the summer, the coastal tundra is a vast gathering stop or staging area for the southward bound waterfowl, which at this time includes an even greater variety of species. At this time, the birds feed on the many varieties of ripening berries before the lengthy flight south.

#### 4. Fish

Fish constitute yet another important resource of the Lowlands. A number of fish species are present in

significant quantities along the south shore of Hudson Bay. These include both anadromous and fresh water varieties. Those which can be considered as having either past or present economic value(both domestically and commercially) by their size and relative densities include Arctic Char, Brook Trout, Cisco(Lake Herring), Whitefish, Pike, Walleye, several species of Carp and Burbot(Scott and Crossman, 1973).

Most of the above species are fall spawners requiring specific environments in which to lay their eggs. The guiding parameters include water temperature, water depth, bottom characteristics(sand or gravel)etc. Runs vary in intensity and timing. Brook Trout and especially Arctic Char afford very unique fishing opportunities as they migrate up rivers and streams in the fall. Pike and Walleye, on the other hand, are spring spawners.

#### Prehistory

Knowledge about the prehistory of the Hudson Bay Lowlands is very limited. On the one hand, several socio-cultural anthropologists and archaeologists working further to the south on the Shield dismissed the likelihood of any sustained or important prehistoric occupation of the Lowlands based on their perception of the ecological possibilities of the area. Our contention is that the present ecological setting is one that differs substantially from the pre-contact situation. The historically observed

settlement/subsistence patterns are reflective of an adaptation to a radically different economic pattern. Other more practical considerations such as the high costs involved in conducting archaeological fieldwork in northern Ontario and the difficulties encountered in moving about on the land, have combined with the first reason to greatly discourage substantial attempts at investigation.

This situation began to change somewhat in the 1970's as archaeological investigations were carried out to the south, west and east of James Bay(Dawson, 1976, Denton, 1978, 1980, 1981, Dickson, 1980, Laliberté, 1978, Pollock, 1976, Reid, 1980, Reid and Ross, 1981,). It became increasingly apparent that research was needed within the Lowlands in order to determine the distributions of geographically peripheral cultural systems. Notwithstanding excellent reasons for the conduct of research in the area, the high costs still prove to be prohibitive.

The first archaeological work, in Ontario's Lowlands, took place on the Brant river, in the Cape Henrietta Maria area(Tomenchuk and Irving, 1974). Here, J.Tomenchuk and W.N.Irving located the remains of prehistoric occupations.Their work disproved the thesis of no prehistoric occupation in the Lowlands. More systematic research took place soon after, further inland, on Hawley Lake(Pollock and Noble, 1975). A number of prehistoric sites(14) were located and sampled. Both ceramic and

aceramic manifestations occurred. The oldest site dates to A.D. 915 and the ceramics were found on a site dated to A.D. 1410. Interestingly enough, although located on the shores of a lake containing excellent fish resources, the overwhelming faunal remain was that of caribou. The cultural materials clearly showed relations with southern manifestations rather than with northern Inuit peoples.

In the Fort Severn area itself, archaeological field-work aimed specifically at recovering evidence of prehistoric and historic amerindian occupations were carried out during the summers of 1981 and 1982 by J-L.Pilon. The initial survey and subsequent excavations were limited , for the most part, to the last 28 miles of the Severn river. From this preliminary work, two main conclusions can be advanced.

First, the Severn river data reiterates the importance of caribou in the subsistence of prehistoric and historic foraging groups. Second, of the six prehistoric sites, only one produced ceramics and these were associated with trade goods and in a context which has been dated by radio-carbon analysis to A.D. 1680. On the whole the presence of ceramics at three sites on the Lowlands is very limited; the total for the three northern ceramic-yielding sites now stands at less than 75 sherds! The evidence, such as it is, seems to suggest that ceramics arrived quite late to the Lowlands eventhough the Lowlands had been occupied for at least a

millennium. In fact, it may be that prehistorically the Lowlanders were somewhat distinct from the peoples further south on the Shield, at least in their lack of ceramics and their basic economic pattern. The ecological situation of this period was probably such that these people depended to a very large degree on caribou on a year round basis, therefore they would have stayed within the Lowlands for the entire seasonal cycle. Contacts with southern people could have occurred during the winter in the southern Lowlands as northern Shield peoples perhaps would have found it advantageous to move into the southern Lowlands at this time as well. These annual contacts would thus have afforded the opportunity for mechanisms to operate which tended to minimize cultural divergences as well as to allow information exchange for example regarding the availability of game and the presence of traders.

### History

The history of Fort Severn, such as it has been written, is actually the history of the Hudson's Bay Company on the Severn river. In order to deal adequately with the history of the inhabitants of the community, a great deal of research, both archaeological and archival would be necessary. Notwithstanding this existing cultural bias, a brief description of major historical events are presented. These have been adequately dealt with, elsewhere (Christianson, 1980, MacFie, 1970) and as such detailed discussions are

deferred.

The first Europeans to have set foot in the Fort Severn area were men from the ship Henrietta Maria under the command of Thomas James in 1631(James, 1740). The event took place sometime around the end of August. The ship entered a bay which could have been the estuary of either the Severn or Winisk river. On the 27th, a boat was sent ashore to obtain fresh meat. The quotation which follows gives a good idea of the crew's general impression of the land. Even had not the ship actually been at the mouth of the Severn, the quotation may be taken as a representative description of the southern coast of Hudson Bay in general:

"At length they came, and all safe and well, and excus'd themselves, that upon their coming shore, it ebb'd so suddenly, that a Bank of Sand was presently dry without them, as they could not come away, till that was cover'd again; and with that they pacified me: They reported, that there was great Store of Drift Wood, on the Shore; and a good Quantity growing on the Land. That they Saw the Tracks of Deer and Bears; good Store of Fowl; of which they had kill'd some; but no Sign of People."(p.28).

Some forty years later, Govenor Bailey is reported to have found the Indians of the "New Severn River" to be as poor as Eskimos. He found the northern(Hudson Bay) Indians to be more "beggarly and brutal than those to the south(James Bay)(Oldmixon, 1931;392). These early observations appear wrought with prejudice and malice. It must be remembered however, that Bailey's purpose was to reconnoiter the Bay for fur resources. Most probably because of an abun-

dance of caribou, the people used little beaver in the manufacture of their clothing. To those accustomed to conceiving of wealth in terms of beaver skins, the people of southern Hudson Bay would naturally appear impoverished.

The first H.B.C. post was erected on the south bank of the Severn river in 1685 about 2 miles up river from the modern settlement. As most of the fur trading posts on James Bay, that had been built by the Hudson's Bay Company, were now held by the French, Fort Churchill(as it was known at the time) was a very important post indeed. The post, because of its importance was not allowed to exist for long. In 1690, after an unsuccessful attack on Port Nelson, Pierre LeMoyne d'Iberville sailed into the Severn only to find the post deserted and burned by its occupants. The fort's stores of beaver were, however, intact and surely hauled aboard..

Prior to 1759, the activities of Europeans on the Severn are not well known. Some would have the French erecting a trading post near the ruins of the H.B.C. fort. Archaeological evidence to date does not substantiate this. Others have suggested a French fort on the north bank. Yet others have suggested only a seasonal presence of trading parties at the mouth of the Severn.

Whatever the case may be, with the signing of the Treaty of Utrecht in 1713, the former Hudson Bay posts were returned to the English. In 1759, a post(Fort James) was

erected where the present H.B.C. buildings now stand and this site location has been occupied without interruption ever since. The post has undergone two major known construction phases but others are probably either undocumented or unresearched. The oldest published plan of the Fort Severn post dates to 1823. Three main buildings fronted on an open square. The entire enclosure including auxillary buildings and garden was surrounded by a palisade. By the late 1960's, if not much earlier, no obvious traces were left of any of the 1823 buildings and the oldest extant building today dates to the first half of the 20th century. The present group of buildings is much reduced in number and is the result of construction in the mid 1970's.

#### Fort Severn-Washaho

The modern community of Fort Severn(Washaho) acquired its present character as a permanent settlement about two decades ago. At this time it became increasingly easier to avail oneself of the various government services and especially education by being permanent residents of Fort Severn. Notwithstanding these necessities and the resulting settlement trend, trapping hunting and fishing still constitute substantial economic activities and are pursued over a wide area(see land use maps).

Fort Severn's population of 280(1981 census) people live in about 60 or so dwelling units. Most of these are of the "pre-fab" type which are constructed in the south and

brought up in pieces for assembly. A few examples of houses constructed of local materials do exist however.

Residents have had the use of Telesat since about 1974, but still lack water, sewerage facilities and electricity in their homes. On the one hand, the problems associated with the freezing of underground pipes poses a very serious problem which would be quite expensive to solve. As for the electricity, the community is still too small to make the installation of a diesel generator economically feasible but plans exist. Home heating is done with wood while cooking and lighting is done with naphtha and/or propane. The river and creeks as well as four public-access drilled wells provide drinking water.

The actual layout of the settlement follows an old predetermination; i.e. it is closely linked to the geomorphic processes previously discussed. Basically, most of the homes and other buildings are stretched along the levee on the top of the steep embankment on the north side of the Severn River(Washaho Sepe). The presently used air-strip lies along the crest of an old chenier or sand ridge which lies perpendicular to the river. A number of more recently constructed homes lie along this axis.

Important public buildings include the band office and craft hall(these were used as classrooms prior to the construction of the present school in 1975), a band hall and band garage. At present, schooling is available in Fort

Severn for kindergarten up to grade 8. To continue on to high school, students must take up temporary residence in southern towns and cities, these being usually Sioux Lookout and Thunder Bay.

There are three places of worship in Fort Severn; the Anglican, Roman Catholic and Pentecostal churches. Most of Fort Severn's population are members of the Anglican Church of Canada but other denominations in addition to the above three are present, namely the Mennonites and Apostolics.

The present airstrip and associated buildings and services(M.T.C.) have been in operation since 1973. However, due to the proximity of the airport to the school, a new airstrip is presently nearing completion 3 miles away on a sand ridge. Fort Severn regularly receives scheduled air service from the south via Timmins or Big Trout Lake.

There are no permanently stationed medical or dental staff in Fort Severn. There are, however, local residents trained to cope with emergencies and Medivacs are available. Nurses visit the community every two weeks or so from Big Trout Lake. Optometrists and Dentists come to Fort Severn about twice a year.

When the Fort Severn Band signed the adhesion to the James Bay Treaty(No.9) in 1930, it numbered about 75 persons. At this time, the Band had a Chief and one councillor(Munzie Albany-he is still an active member of the

community at 93 years of age!). Today the Chief is aided by two councillors. Monthly general meetings are held in the band hall where the entire community can participate. The local FM radio station is also used by the band council to communicate with the population.

Finally, the only retail store in Fort Severn is still the Hudson's Bay Company store. It stands on the same site originally selected in 1759, albeit a bit further inland than the site of the first post which has long since been eroded away. Although the role of the company has greatly changed over the years, it still serves as a focal point in community life, being a natural place where people come together. As well, through this store, move some of Ontario's finest furs.

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FORT SEVERN LAND UTILIZATION AND OCCUPANCY STUDY

PART II

Section A.      Land Utilization Maps, Patronymic Groups, Land  
Area, Homeland, Patronymic Territories.

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## Fort Severn - Section "A"

### Introduction

The Fort Severn land use and occupancy study was carried out in 1981 by the Fort Severn Band Council. A total of thirty-six individual map biographies were drawn. The maps were collected by Dave Mathews of the Fort Severn community. All thirty-six interviews were with men resident in Fort Severn.

The Fort Severn maps cover all those lands utilized within Ontario, but not those utilized within Manitoba (with two exceptions). Manitoba land utilization by Fort Severn trappers and hunters was not marked on the maps as the trappers and hunters feared legal retribution in the form of court summonses and fines.

Game laws, fishing restrictions and trapping licences are provincial concerns and Fort Severn residents are discouraged from utilizing lands in another province. An administrative decision thus constrains the Fort Severn population from acknowledging their utilization of the Manitoba area. That people continue to use their traditional lands as they had prior to the Boundary Extension Act of 1912 is deductively apparent from the compiled maps. All activities stop abruptly at the Ontario, Manitoba boundary. This produces an artificial density of utilization at the border. Had Manitoban land activities been included, it is presumed that the utilization densities would have been more continuous with those found in the rest of Northern Ontario.

It would appear from the composite maps that interviewees did and continue to be actively engaged in the full range of land utilization activities well into the Crown lands of Manitoba. Though the use of Manitoban land was not mapped, informally, it was made clear that lands were used within Manitoba and further that rights to these lands were recognized, acknowledged and sanctioned by bands in Manitoba.

Land utilization is intimately related to kinship relationships and vice versa. The continued utilization of Manitoban lands can be understood in terms of kinship groups continuing sets of relationships with neighboring land-using groups (bands) for social, political and economic ends regardless of provincial boundaries. To prohibit the utilization of Manitoban lands would mean that sets of kinship relations built up over generations would initially operate in a vacuum and hypothetically later no longer have a basis for existence. Social disruption and economic hardship would therefore be the logical conclusion of such prohibition.

From these maps and those compiled for the other six Kayahna tribal communities, one can see that each community's land allocations, that is, the locations of homelands, are specific, and are the result of a combination of socio-cultural and economic-environmental factors. The particular land utilized by each band or community are the result of innumerable generations having developed a careful balance between creating and maintaining connections (primarily through marriage) within and between bands, and population distribution in relation to the carrying capacity of the land. The singular concern of the populace seems to have been an equitable distribution of population in relation to resources which reflects the coastal peoples' notions of social, political and economic equilibrium.

Apart from the social structural context of land utilization there are two other considerations regarding the Manitoban lands. First of all, the utilized lands of the lowlands bands encircling James Bay, and the West Coast of Hudson Bay are oriented in a south-west to north-east direction following the flow of the major rivers. Hence, bands in Quebec close to the Quebec-Ontario border had traditionally utilized lands in Ontario directly south of Moosonee and those bands further along the Coast of Ontario, such as Ft. Albany, Kasachewan, Attawapiskat and Winisk have their lands parallelling the major (respectively the Albany, Attawapiskat and the Winisk Rivers) which all flow roughly

south-west to the north-east. The Fort Severn peoples' land utilization is continuous with the pattern found about Hudson Bay. Hence their lands extend south-west to north-east between the Severn and Kakattama Rivers, (the latter being in present day Manitoba). Thus, the physiography of the region (combined with the nature of resource utilization) have to some extent conditioned which lands are utilized.

Second, the land utilization patterns of these sub-artic peoples are both interlocked and overlapping on the peripheries of each homeland. Hence, there is no "free", "vacant" or "unused" land. Accordingly, there would not be any other lands available as a replacement to the Fort Severn band should their traditional territories in Manitoba be denied to them.

This study acknowledges that the Fort Severn Band members are utilizing lands within Manitoba, but little comment will be made about these territories as these lands were neither documented nor mapped.

It should be stressed that these lands are of social, economic and political importance to the Fort Severn Band, and in an attempt to protect band members' access to these lands, these lands have been omitted from the mapping work. The omission is not to be interpreted as a diminuation of their use value.

#### The Fort Severn Land Utilization and Occupancy Maps and Patronymic Groups

The thirty-six Fort Severn maps represent the land utilization of all the households resident in Fort Severn. In all there are twenty-nine patronyms represented in this community. These are as follows:

1. Albany	(p. 2)	11. Gull	(p.29)	21. Pichabin	(p.67)
2. Anderson	(p. 3)	12. Hunter	(p.32)	22. Sagabon	(p.70)
3. Angees	(p. 4)	13. Kakekespan	(p.35)	23. Sanders	(p.73)
4. Beardy	(p. 6)	14. Koostachin	(p.45)	24. Skunk	(p.76)
5. Bluecoat	(p.11)	15. Mack	(p.91)	25. Spence	(p.77)
6. Carpenter	(p.90)	16. Mathews	(p.51)	26. Stoney	(p.78)
7. Crow	(p.20)	17. McKay	(p.52)	27. Thomas	(p.81)
8. Cutfeet	(p.21)	18. Miles	(p.56)	28. Turtles	(p.83)
9. Fiddler	(p.23)	19. Mitchell	(p.58)	29. Wenjino	(p.85)
10. Grey	(p.27)	20. Paul Martin	(p.65)		

For a community of 298 there are a third less patronymic names than would be found in the other communities of comparable size in the Kayahna Region. There are two possible explanations for this. The first is that the twelve major patronymic groups of the community are very populous with many sub-sections, hence there is noticeably little marriage outside of these major Fort Severn patronymic groups. The second explanation requires further verification. It is posited that Fort Severn may be more geographically isolated than the interior communities are from each other and perhaps more isolated than the other coastal communities, hence this would encourage spousal selection from within the band. A comparison of the Fort Severn situation with neighbouring coastal-lowland communities would elucidate a more complete picture of the particularity or generality of the circumscribed number of patronymic units to be found in Fort Severn.

Though the total number of patronymic groups to be found in Fort Severn is markedly less than in other Kayahna communities, the number of primary patronymic groups (12) falls well within the mean (10-15) for the Kayahna Area. Three of the primary patronymic groups have sub-sections. The Bluecoat patronym (p.11) has two sub-sections, and the Mathews (p.51) and Stoney (p.78) patronymic groups each have three sub-sections.

The twelve principal Fort Severn patronymic groups are as follows:

1. Albany	(p..2)	8. Mathews	(a) Jacob	(p.51)
2. Bluecoat	(a) Peogan (p.11)		(b) Jeremiah	
	(b) John		(c) Sam	
3. Crow	(p.20)	9. Miles		(p.56)
4. Grey	(p.27)	10. Mitchell		(p.58)
5. Hunter	(p.32)	11. Stoney	(a) John	(p.78)
6. Kakekespan	(p.35)		(b) James	
7. Koostachin	(p.45)		(c) Joseph	
		12. Thomas		(p.81)

Of the total of thirty-six maps collected in this community, five were collected from the Albany (p.2) unit; three were collected from the Bluecoat (p.11) unit; four were collected from the Grey (p.27) unit; one from the Hun-

(p.32) unit; three from Kakekespan (p.35) unit; one from the Koostachin (p.45) unit; seven from the Mathews (p.51) unit; two from the Miles (p.56) unit; one from the Mitchell (p.58) unit; five from the Stoney(p.78) unit; and four from the Thomas (p.81) unit.

#### TOTAL LAND AREA

The area of land utilized in Ontario by the residents of Fort Severn is approximately 21,875 sq. mi. (175 miles by 125 miles). An estimated additional one third to one-half of the Fort Severn lands lie within Manitoba. The total land area utilized is estimated to be between 35,000 and 40,000 square miles.

In comparing the area utilized by the Fort Severn peoples, with that of the interior Kayahna communities, the 21,875 sq. mi. figure is markedly lower than the territorial size of comparable sized communities such as Kasabonika-28,350 sq. miles. . . .

The carrying capacity of the lowlands is much lower than that of the interior. In a recent article, B. Winterhalder described the composition of vegetation types for the Muskrat Dam area a community of the Windigo Tribal Group due south of Fort Severn. Winterhalder noted that from quantitative analysis of the area (about Muskrat Dam)::

"Several things stand out. First, fifty per cent of the area is muskeg, or peat bogs, relatively unproductive habitats for terrestrial mammals and difficult ones for the Cree forager in summer. Another eighteen per cent is covered by water. The remainder of the habitat is upland patch types, for the most part in various stages of succession from recent burns to the climax association for this area-closed black spruce forest. The exceptions are the rarely occurring outcrops which support pine forests or lichen wood-lands". (1981:77)

On the Coastallowlands the composition of the floral cover is subsantially different. Primarily a greater percentage of the area - up to 75% is in muskeg or peat bogs. The area covered by water becomes harder to differntiate from

muskeg or peat bogs, and remains in the order of fifteen to eighteen per cent. The remaining seven to ten per cent of the area is a spotty distribution of "transition forest" growth. In a provincial government report on Polar Bear Park, the transition forest is described as consisting most commonly of black spruce, white spruce, larch, balsam poplar, dwarf birch and "a variety of willows" (*Salix spp.*), but

"Only 10 percent of the region is dry enough to support tree growth. Such areas are mainly along lake and river borders and on beach ridges" (M.N.R. 1977:21), (my emphasis)

In this northerly lowland region there are several distinguishing characteristics regarding the densities of the major resource species. In contrast to the interior, where "The biomass of the large mammals, moose and caribou, is low compared with that of the smaller organisms" (Winterhalder 1981:79), the biomass of particularly caribou is quite high in the lowlands compared with that of the smaller organisms. In the M.N.R. report on Polar Bear Park, it is noted that

"Approximately 7,000 caribou, possibly more than half the total provincial population, live in the Ontario lowlands north of the Attawapiskat River" (1977:31).

Of this figure of 7,000 approximately one-half are to be found in two herding areas south of Fort Severn. One area is between the Beaver and Severn Rivers and the second area is between the Neskibi and Black Duck Rivers.

The moose populations are low in the lowlands and are found in the transition forest areas and only "occasionally along willow-fringed creeks in the tundra section" (M.N.R. 1977:31).

Small mammal<sup>1</sup> populations are highly unreliable as singular resources, as each species has "cyclic, periodic, but irregular population fluctuations"

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\*<sup>1</sup> Beaver, otter, mink, marten, fisher, wolverine, Canada lynx, timber wolf, arctic fox, red fox, black bear and polar bear.

(Winterhalder 1981:79). This particular characteristic of all northern small mammals has been well researched and documented (Bulmer 1974; Elton 1942; Keith 1963; Winterhalder 1980; Keith 1974).

Thus, in the Hudson Bay lowlands, large game are more plentiful, wide ranging and reliable than in the interior, however, small game are less plentiful by 35 to 50 per cent and experience dramatic population fluctuations.

Therefore, given the more northerly, coastal and lowland location of the Fort Severn lands, and a concomitantly lower carrying capacity of these lands, a total land utilization area of 21,875 sq. miles is by far too small a land base for the Fort Severn population. Hence, it is highly improbable that the Fort Severn peoples would be able to provide for their dietary and economic needs in an area of land barely sufficient in the interior on a deductive basis, the 21,875 sq. miles of land constitute an inadequate resource base, and a more realistic or truer total of the areas utilized would be the second set of figures noted above - 35,000 to 40,000 sq. miles, but for which we have little supportive mapped data as the additional lands lie within Manitoba.

#### The Homeland

The Fort Severn maps are very distinctive in the expression of the nature of the homeland. It may even be more correct to talk of homelands in the plural for the Fort Severn population. As is evidenced from the composite maps (overall land utilization, trapping and hunting) there are three discrete areas of intensive utilization massively interconnected by a web of winter travel routes. The first and largest area probably extends into Manitoba. The lands in Ontario extend westward from the reserve community of Fort Severn, in a ten mile width along the coast to within two miles of the Niskibi River, then widen to the south-west to a mile or two south of the Beaver River, then continue in a north-west direction bounded by the Beaver Stone River,

then north-east by Hosea Lake and then vertically north to the Manitoba border and following the provincial boundary to the Hudson Bay Coast<sup>\*2</sup>.

This land area is utilized by and is of economic importance to one-third of the Fort Severn families. Access to and control of these lands is based upon historical utilization, and, kinship connections to patronymic units in primarily the northern Manitoba reserves of Shamattawa and York Factory.

The second area is really a southern extension of the northern area. It is markedly smaller in area and extends south of the community site along the Coast for 25 miles. This area is bordered on the north-west side by the Severn River and is centered on two major creeks: the Goose and Beavertrap Creeks which debouche into Hudson Bay. These lands extend inland by approximately 35 miles.

The third area has two parts. The larger area is centered on the Sachigo and Severn River confluence. This part is very irregular in shape as it follows in wide swaths the meanderings of tributaries and rivers about the confluence. It includes the Rocksands River tributary, a 25 mile section of the Severn River and a 40 mile section of the Sachigo River up to the confluence. This homeland also includes the areas encircling five tributaries of the Severn River downstream from the confluence. The dimensions of this area are approximately 25 miles (width) by 60 miles (length).

The smaller part of this third homeland is centered on the tributaries of the Fawn River (Poplar, Pitticow and Sugar Rivers), and an unnamed tributary north-east of these three tributaries feeding into the Severn River.

The Coastal Fort Severn homelands are utilized exclusively by the Fort Severn population, however the interior homeland, especially about Locksands

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<sup>\*2</sup>

The lands Echoing utilized in Manitoba probably cover the northern tributaries of the Schoing River and the Kettle River watershed right up to the Coast. The Fort Severn homelands probably do not include the Kakattama River, but come within two miles of the river.

is an important place for meeting with peoples from Big Trout Lake and Angling Lake. The southern limits of the interior homeland are therefore co-utilized by peoples from three communities and the area is accordingly included as a region of importance on the land utilization maps of all three communities.

The eastern perimeter of the land area utilized by the residents of Fort Severn includes lands within the territories of Winisk.

FORT SEVERN LAND UTILIZATION AND OCCUPANCY STUDY

PART II

Section B. Patronymic Territories.

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Toronto, Ontario

### The Patronymic Territories

The twelve primary patronymic groups resident in Fort Severn utilize seven discrete territories, three of which consist of two parts each (areas 1, 3 and 7). Two of the seven territories have a high incidence of utilization (areas 1, and 6) and are unlike the other territories clearly identified and utilized by most (perhaps even all) members of Fort Severn. One of the two is striking in that three of the four boundaries are identically reproduced on the maps of all those utilizing the territory. The tenacity to these three boundaries is significant and will be discussed below.

The other most commonly used territory does not have such a definable boundary, though a boundary area is visible from the maps. Thus, if the boundaries of this territory were to be drawn out as a composite of all those who have used the area the boundaries would appear to be much more absolute than they have ever been on the ground, that is, in practice. The boundaries in this instance would delineate the reasonable (though not actual) limits of a territory.

It should be noted that the seven territories cut across geographical features, such as major and lesser rivers, streams and ecological zones, and that this aspect is a more definable feature of the Fort Severn territories than any strict adherence to a particular river watershed, geographical feature or ecological niche. This pattern of utilization is most consistent with that found elsewhere in North-western Ontario, whereby an array of patches are preferred by hunters and trappers to the utilization of a single feature area. Diversity, it would seem allows the hunters and trappers a wider array of game, fish and fur-bearing animals with the greatest efficiency and security of attaining a catch.

Accordingly, each territory in the Fort Severn area may include some headwaters, lakes, mid-sections of intermediate rivers and twenty or fifty mile sections of one or two of the largest rivers in the area, such as the Beaver, Beaverstone, Sachigo, Fawn Severn and Ashweig Rivers.

The patronymic territories vary in size, wherein even the smaller territories are quite large and are comparable in size to those found in the interior shield area of North-western Ontario. In the Fort Severn homeland there are four large territories and three smaller ones.

If one studies the location of the territories and their comparative sizes there would seem to be a relationship between proximity of territory to the Fort Severn River<sup>\*1</sup> along the stretch from Fort Severn to Rocksands, and the size of the territory, as well as the number of persons utilizing the territories. Essentially, the closer the territories are to the river the

smaller they become; they are utilized by fewer trappers; and the intensity of utilization is equal to that encountered in the larger territories. That there are fewer trappers in a smaller area is of course quite logical given the constraints of the carrying capacity of the land, such that larger territories can be exploited by a greater number of trappers since presumably a greater dispersion of trappers over the area would take place. However, what is of particular interest here, is that the territories do become smaller the closer they are to the lower end of the Fort Severn River. The corollary to this is the greater the distance from the lower part of the Fort Severn River the larger the territory and the greater the number of co-utilizers of the territories. It would seem therefore, that accessibility to the Severn River is of great importance to individual family groups, such that rather than one particular group controlling whole sections of the river, many have access through their own affiliations and control of particular territories. The rationale would appear to be that it is preferable for all trappers (for this is what it would seem to be) have access to the lower River through their exclusive use and control of discrete territories rather than having to seek permission from a particular group to cross their territory in order to travel, fish or otherwise communicate along this important part of the river.

The average size of the patronymic territories is 3,000 sq. mi. The smallest has an area of 1,200 sq. mi. and the largest is 5,120 sq. mi. in area.

The four smaller patronymic territories are controlled exclusively by members of a single patronym. These patronymic members are often partnered by members of several other patronymic units. Use through partnership and use through control of the ownership of the territory is an important distinction here, and one that has caused a great deal of confusion in the

\*1 Proximity to particularly the north side of the river seem to be the controlling factor here, as territories close to the south bank are intermediate in size between those on the north side and those further to the north-west and south and east.

interpretation of the nature of land utilization.

Access to particular lands are controlled by certain community acknowledged patronymic units. This means that these units have absolute discretion over which sections of the territories will be used in any one year, when they will be used and even by whom. In order to utilize the lands most efficiently and sociably (since trapping is quite an arduous and isolating task) members will change, rotate or combine their partners from different patronymic units through the cycle of land utilization. Thus, when we interview trappers as to which lands they use and when it is extremely important to also inquire as to with whom they used specific lands. The resulting map interviews would seem to produce, what can only be described as a tremendous hodge-podge of people using all the lands of Fort Severn in an indiscriminate fashion. On closer examination and study of the situation one finds that there is in fact a fairly sophisticated and at the same time simple method of land distribution between patronymic units such that each controls either exclusively or in combination with at most one other unit very specific territories which are identifiable on the land utilization maps.

The control of territories of a jural nature, it is sanctioned and supported by all members of the community through consensus. Aberrations in form of land use, trespass and conflicts over utilization are resolved at any one of four forums available to the community.

The first forum is the resolution of inter-patronymic conflict by the members involved. Should there not be a satisfactory solution or quietening of the problem at this stage then other members of the two patronymic units will inevitably become involved. These two levels of discussion would usually take place right in the bush on the traplines or in the camps in the territories. If there should be no adequate solution the next stage is the community level where a much more political resolution is sought as groups will ally themselves based on family connections, associations and ideological motivations. These discussions tend to be very explosive, very public and interminable. If an absolute impasse is reached and the problem threatens the following year's harvesting activities and general well-being of the community an outside authority may be called in, such as officials from the Ministry of Natural Resources, or Indian Affairs. Solutions imposed at this level are either

an administrative correction which generally function-to quieten the explosive aspects but not resolve the substantive aspects of the difficulties. They thus often re-appear in a different form later. Or, the solutions is too late as the community has resolved the problems internally. As a result there may be a solution on top of a solution!

The three largest patronymic territories are also controlled by specific patronymic units but these are most often co-controlled and co-utilized by most usually two patronymic groups.

The largest patronymic territory is controlled not only by a specific single patronymic group but also by a single individual of that group. The patronymic group is the Hunter family (P.32). It should be noted that though T. Hunter controls this territory, he does not utilize the territory exclusively on his own in conjunction with several others from his natal community of Winisk and with one other individual from Fort Severn. T. Hunter had formerly lived in Winisk, but his particular territory was on the northern perimeter of the Winisk homelands and thus quite distanced from the settlement. For this and several personal reasons he chose to move to Fort Severn and resides there full time still utilizing his territories which are located to the south and east of Fort Severn. As a result of his move these lands are now in the Fort Severn Homeland. This introduces an important point: <sup>they have</sup> homelands as ~~they have~~ been defined above in Section I are really quite fluid in terms of their boundaries. It is obvious that certain lands will always be Fort Severn lands as they are located on a particular stretch of the Fort Severn River, or right in the center of lands utilized by the social group defined by the Fort Severn people. Lands on the perimeter of the Fort Severn Homeland are utilized by people who tend to be co-related to both peoples from Fort Severn and from Winisk. Peoples who utilize these perimeter lands can legitimately reside in either community of Fort Severn or Winisk. Their choice is conditioned by family links, personal preferences and pragmatic considerations.

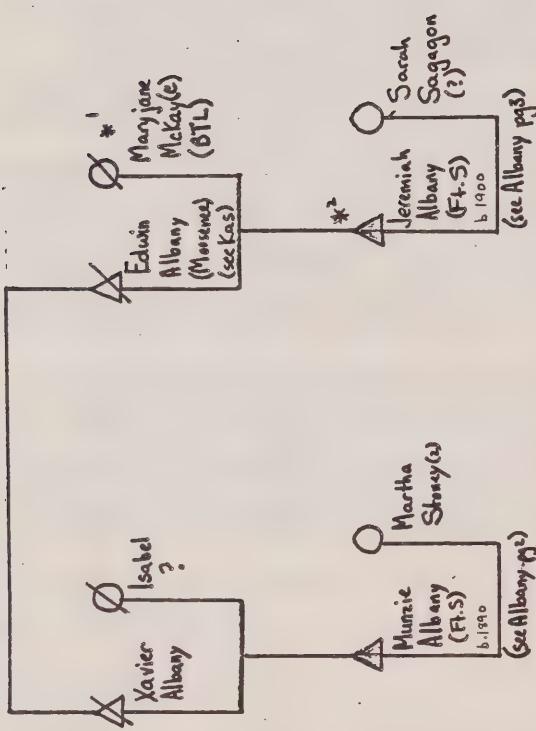
Again here, as was noted for patronymic territory boundaries, the boundaries of homelands are a result of a situational definition, they are fluid and most important it is imperative that they remain fluid as movement and ease of movement of people are closely tied to the optimum utilization and efficiency of utilization of these lands. To re-iterate, if homeland boundaries were to be fixed as being of a certain community and transferability were impossible

5.

economic efficiency would be lost and result in dire hardship for trappers and hunters. This is naturally, the problem imposed by the absoluteness of the provincial boundary which has been discussed above.

The second largest territory has a sub-section along the coast. This sub-section is utilized by not only the two primary patronymic groups - Grey and Mathews- but also by all other trappers and hunters of the community. This anomaly suggests an economic importance of the area particularly during the fall and spring fowl hunts. This area may also be an important route of communication with groups from Manitoba, but this cannot be ascertained given the problems with the provincial boundary. Since there are so many co-utilizers in this sub-section, it may constitute more properly a second heartland for the Fort SEvern Community. However as it is more continuously utilized by the members of the Grey and Mathews patronymic groups I have included it within their area.

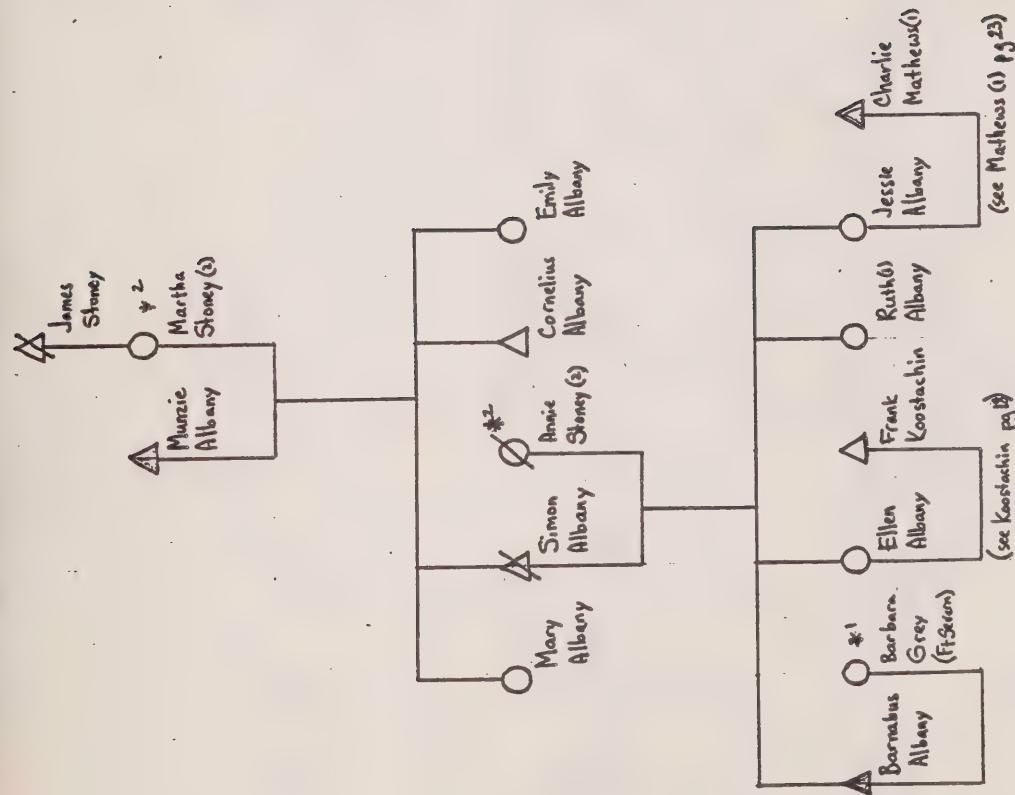
The third largest patronymic territory is the most south-westerly of the Fort Severn Territories. It would also be composed of two parts, the more northerly section being used by the Thomas and Bluecoat patronymic units and the southerly section being utilized by the Thomas and Mathews units..



NOTES

\*<sup>1</sup> see McKay(c) BTL Pg

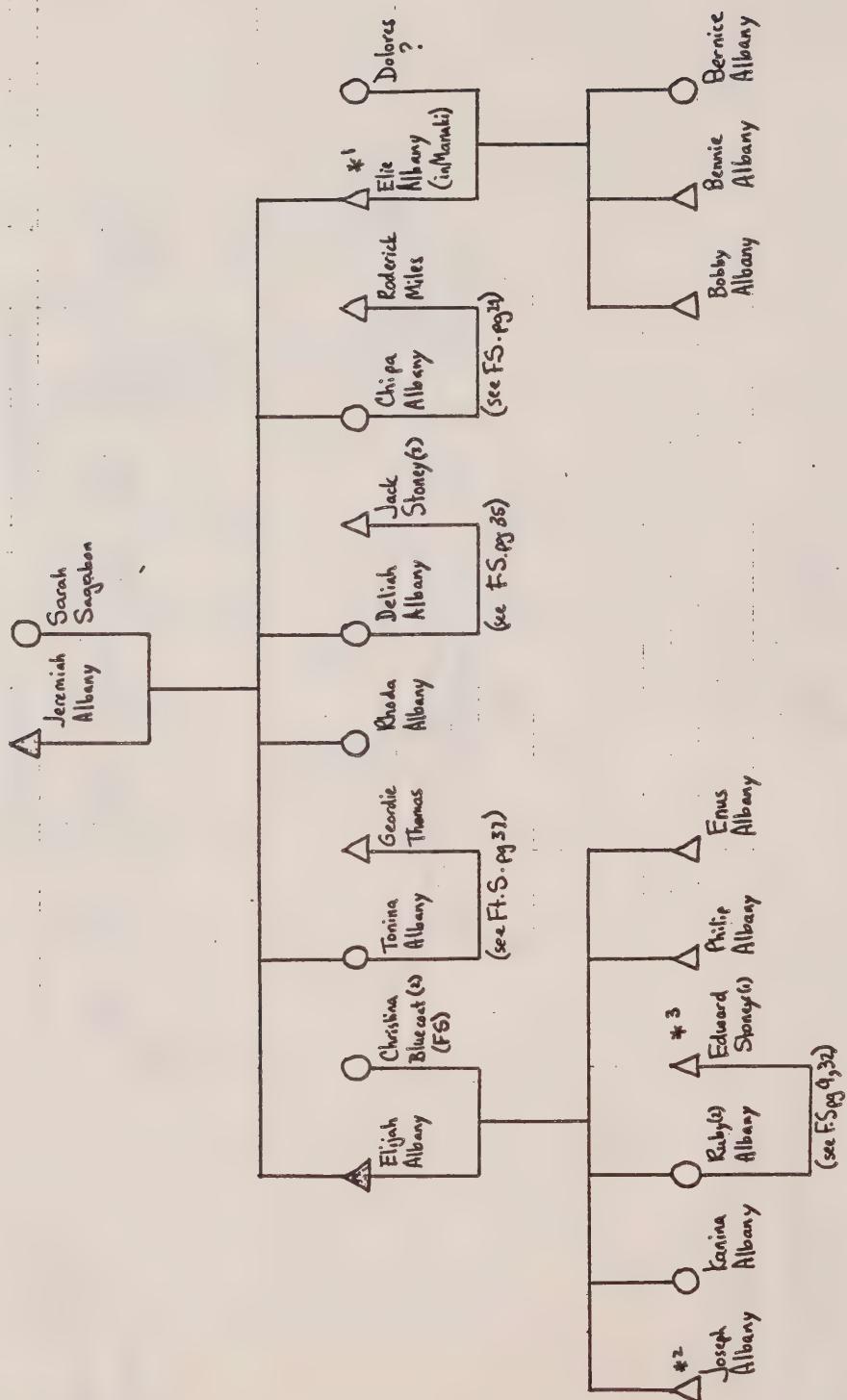
\*<sup>2</sup> for siblings - see Albany Kas - Pg and BTL Pg 1



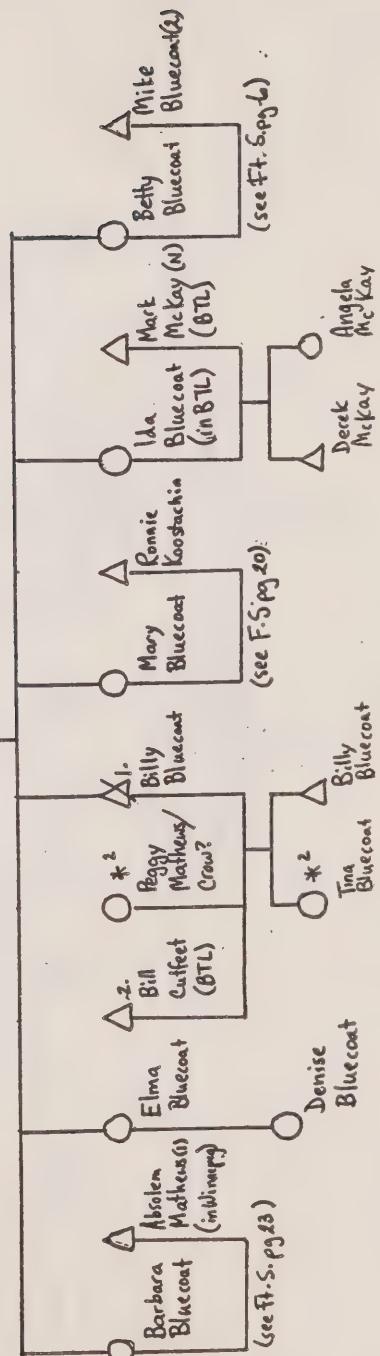
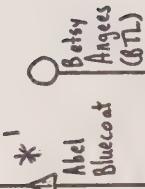
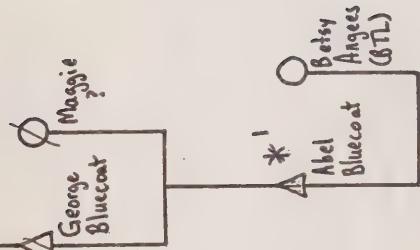
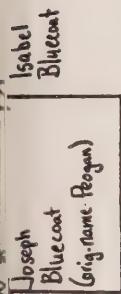
NOTES  
 \*<sup>1</sup> had children  
 \*<sup>2</sup> first cousin marriage  
 (Martha's niece)

(see Mathews (1) pg 29)

(see Koosachin pg 18)

NOTES

- \*<sup>1</sup> in Manaki - working on railroad
- \*<sup>2</sup> retarded, in home outside Ft. S.
- \*<sup>3</sup> see Cross + stone w/ sheets.



NOTES

-name changed from Regan b/c it was too difficult for Indian agents to say.

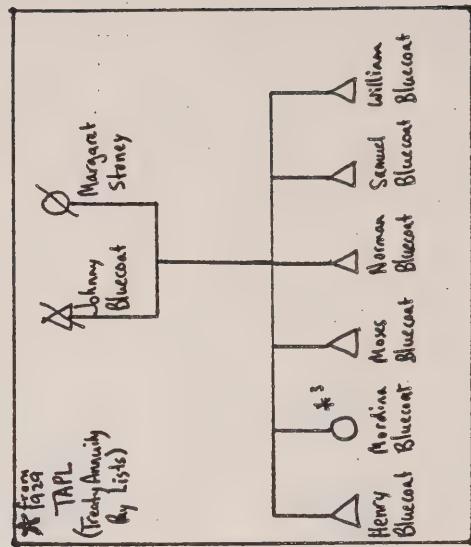
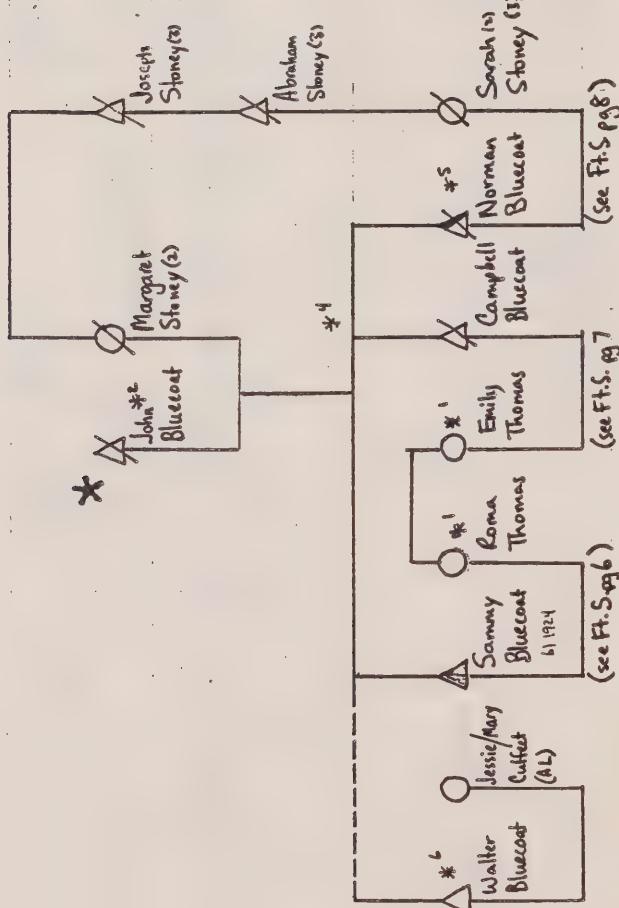
\*Peggy remarried to a Cutfeet - GTL  
-will children

-see Ft. S. pg 24  
-not on GTL chart's

\*Peggy  
mean piece of Bone

Bluecoat(2) Ft Severn  
John (b).

F.S. (26) Bluecoat(2) Pg 5



Note  
\* from Shannothaus, see F.S. pg 36  
\* not related to Bluecoat (1), F.S.

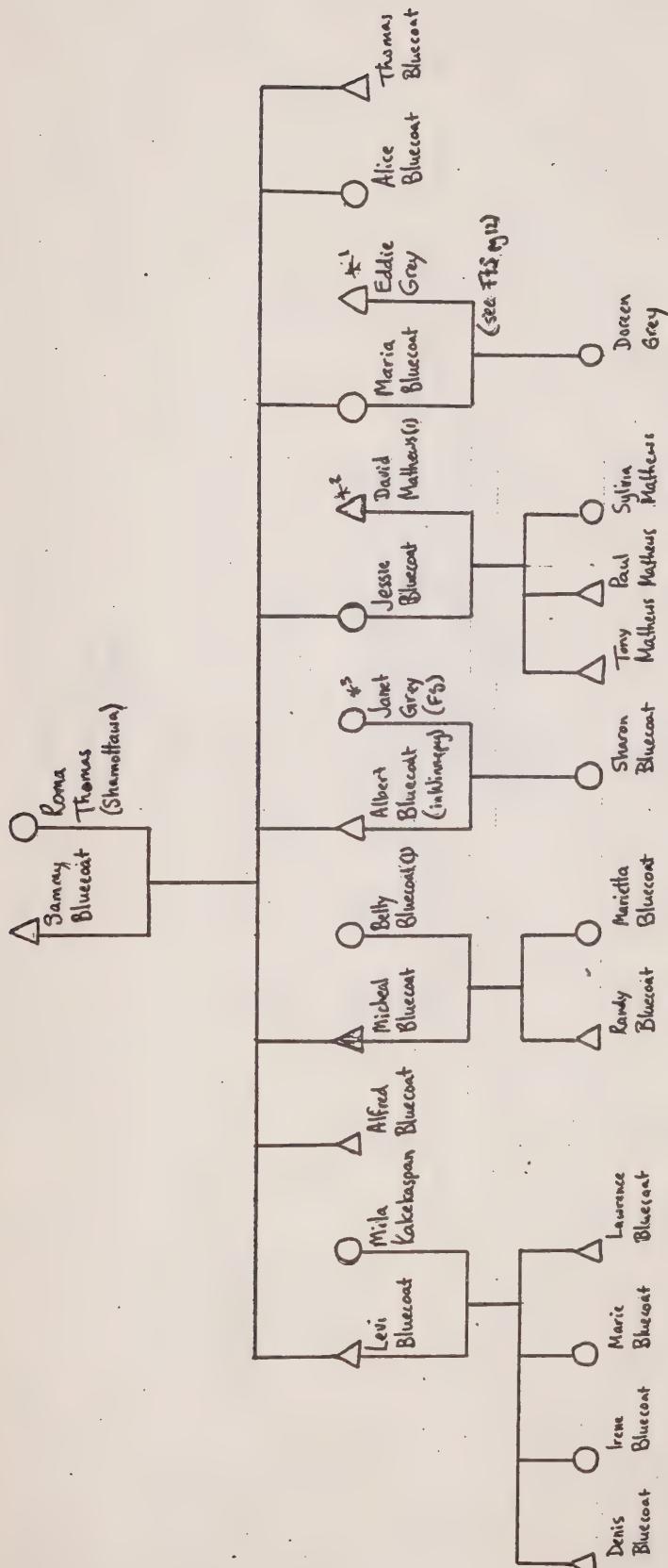
see pg 4 for note.

\* see pg 9, 32; F.S., ghemerried twice  
(insets)  
\* sibling not in order of age.

\* see also B.L. sheet

\* from A.L. charts.

Sammy's Children

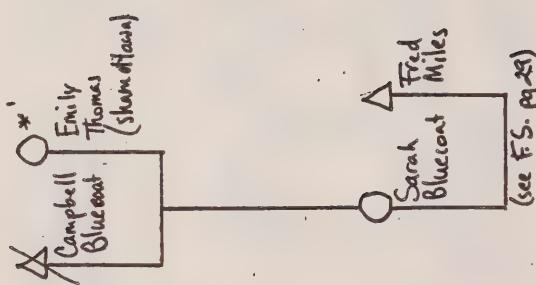


NOTE  
 \*1 married a Grey last name  
 are Indians

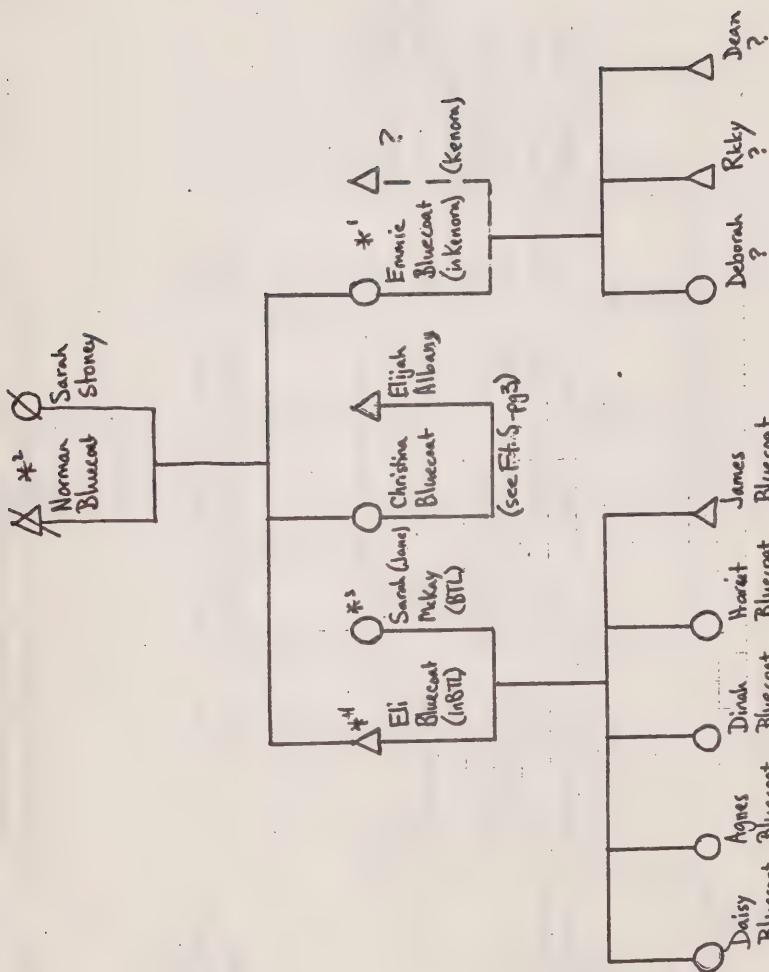
\*2 and F5 Severe P3 F3  
 #1 Mathews (i) - F.S. pg 27

Bluecoat(2) Ft Seven  
Campbell's children

F.S. Bluecoat(2) pg 7



\* see F.S. pg 36

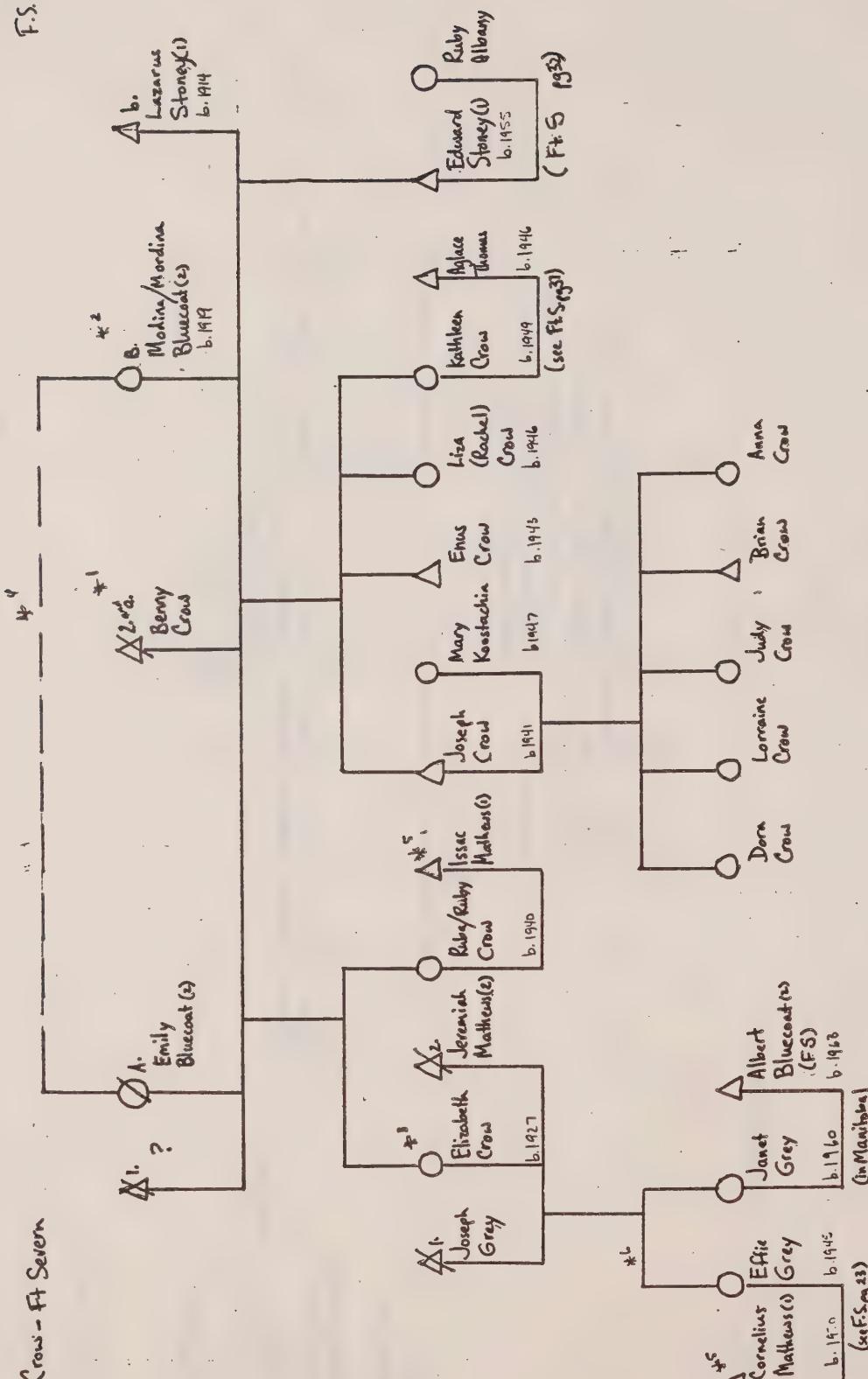


Notes  
 \* common law  
 \*<sup>2</sup> incomplete, see BTL pg  
 for all children  
 \*<sup>3</sup> parents Abraham McKay = Sally Mamukwa  
 from W...

\*4 trapper in BTL

Crow - Ft Seven

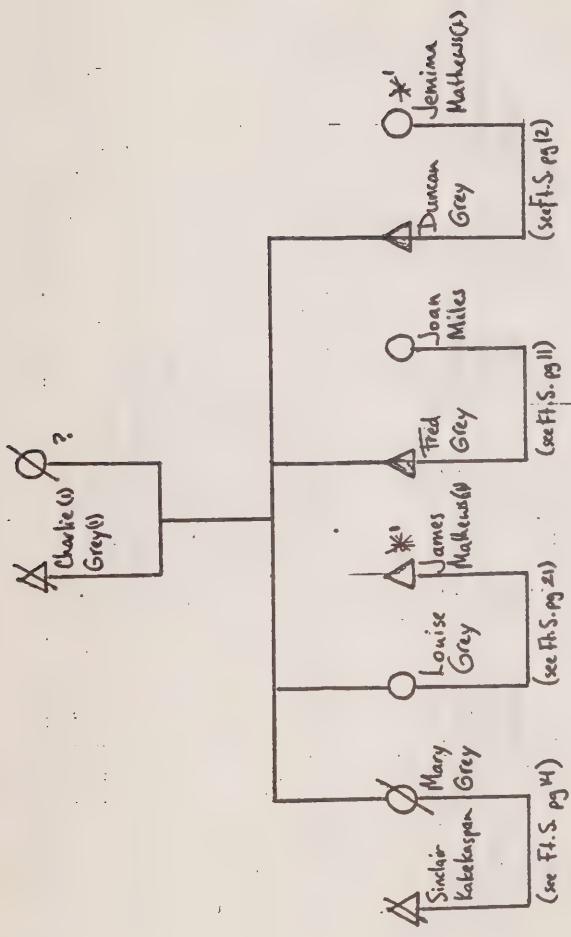
F.S. (3) Crow - pg 9



NOTES

- \*1. Benny Crow married twice
  - A) Emily B) Medina
- \*2. Bro of Louise Crow (Thomil's wife)
- \*3. Linda Mathews (2) - confounding ages
- \*4. Linda Mathews (2) - 2 husbands
- \*5. Linda Mathews (2) - most likely sisters.

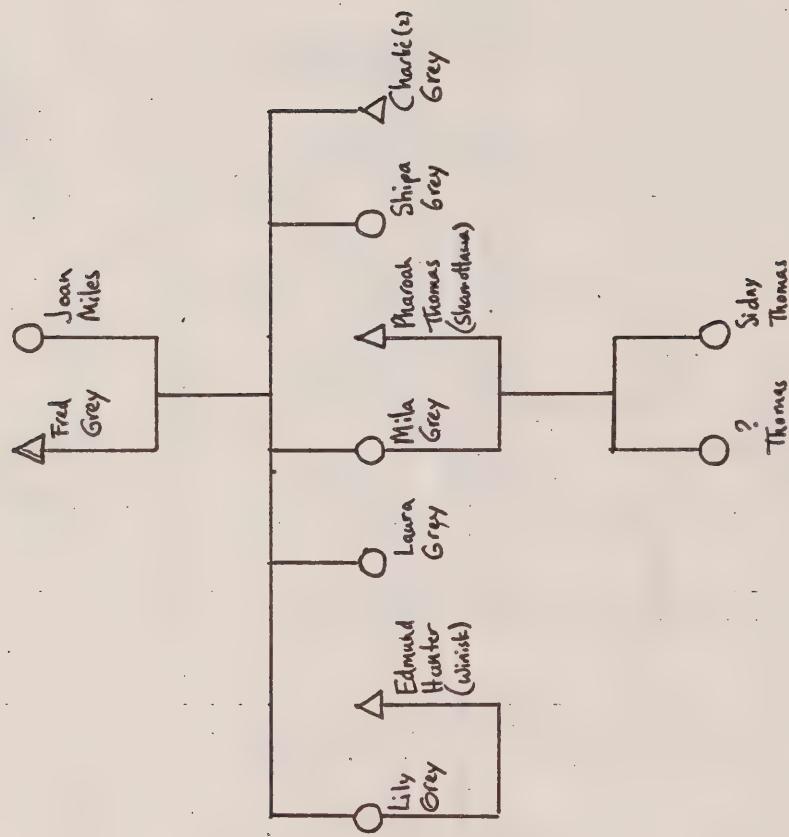
- \*6. see Mathews (2) - confounding ages
- \*7. Linda Mathews (2) - brothers
- \*8. Linda Mathews (2) - brothers



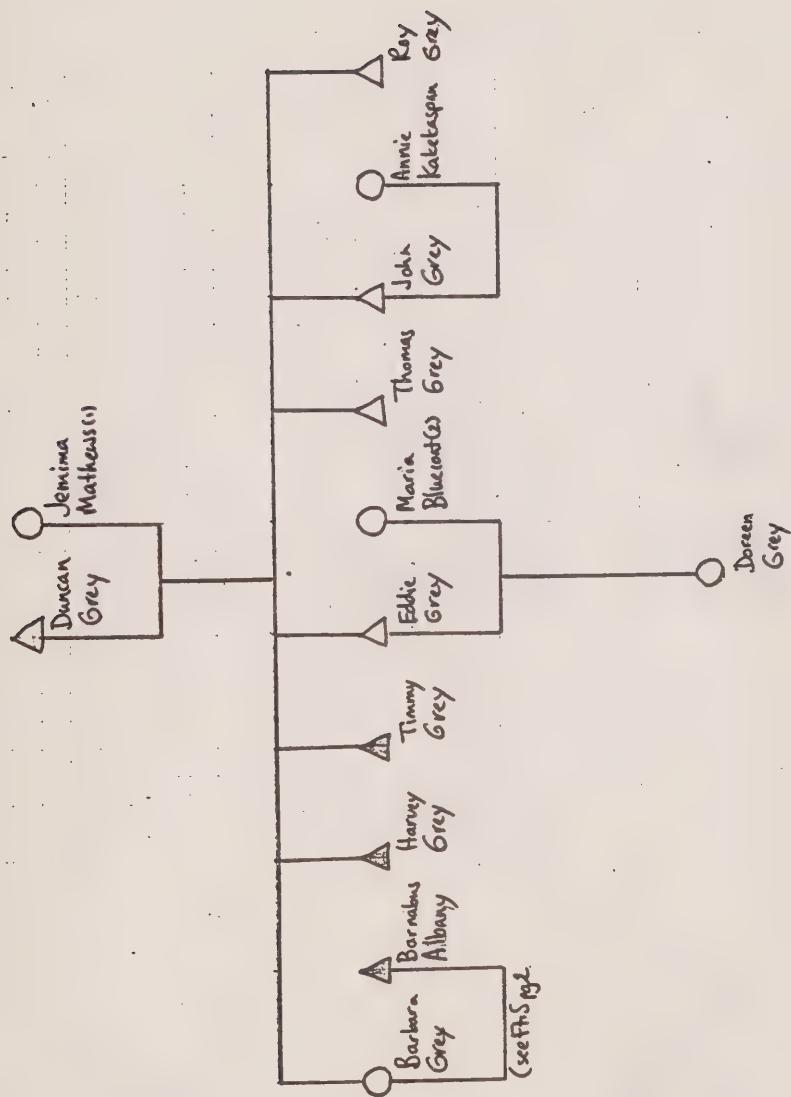
NOTES

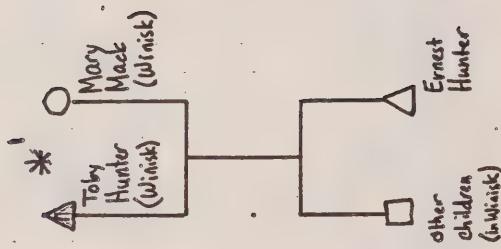


bro + sis married bro + sis.



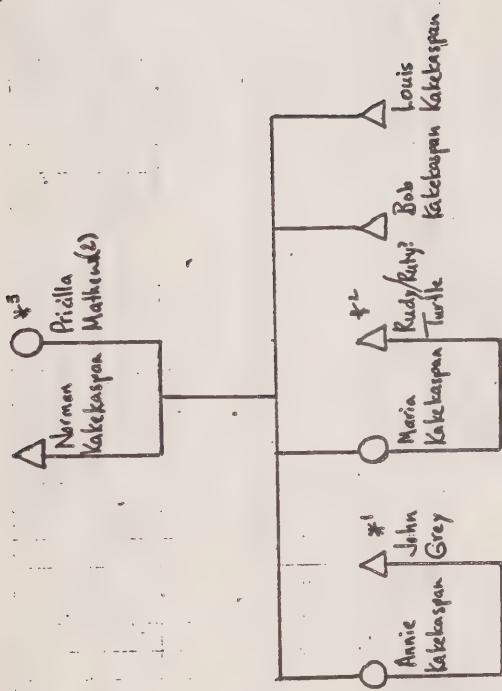
Duncan's children





Note

\* - originally from Wrist  
other children living in Wrist  
- has a trapline 40 mi. south of Ft. S.  
also has goocamp  
therefore moved up to Ft. S. 10 yrs. ago  
to be closer to area.



NOTES

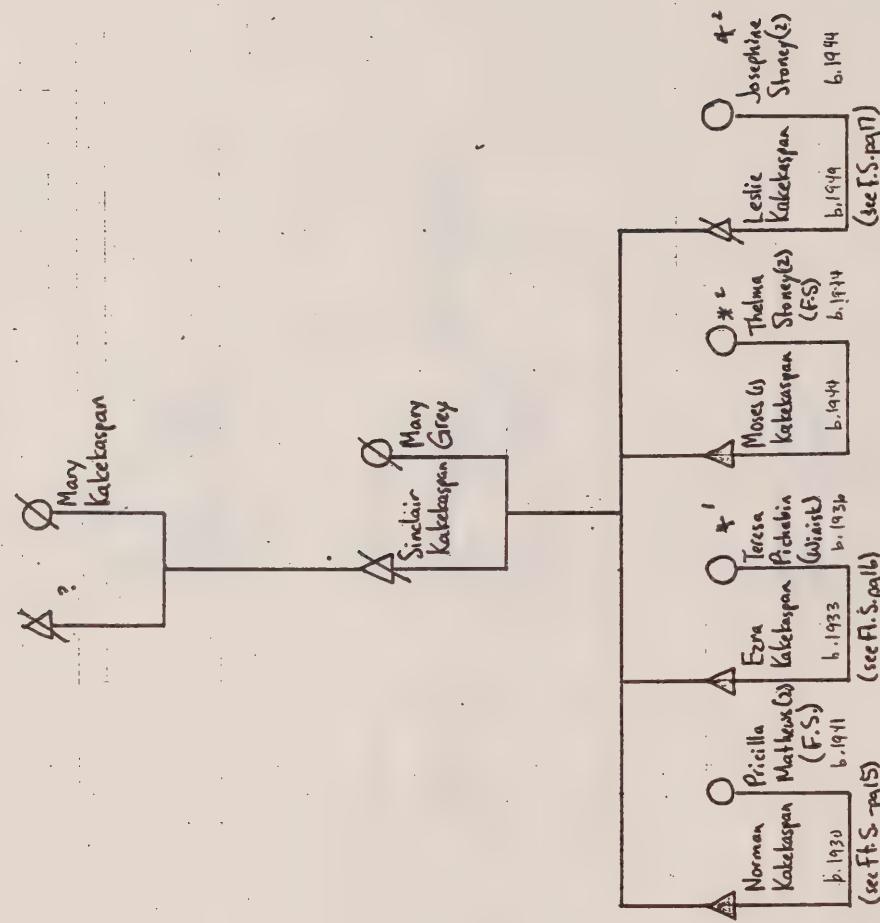
#<sup>1</sup> Annie last child (Grey and Shabadian)  
John - son of Duncan bro-Mary Grey (George)

\*<sup>2</sup> Rudy bro Barnie Turtle = Bessie Matthews (2) pg 25

\*<sup>3</sup> da Jeremich Matthews (2) pg 22

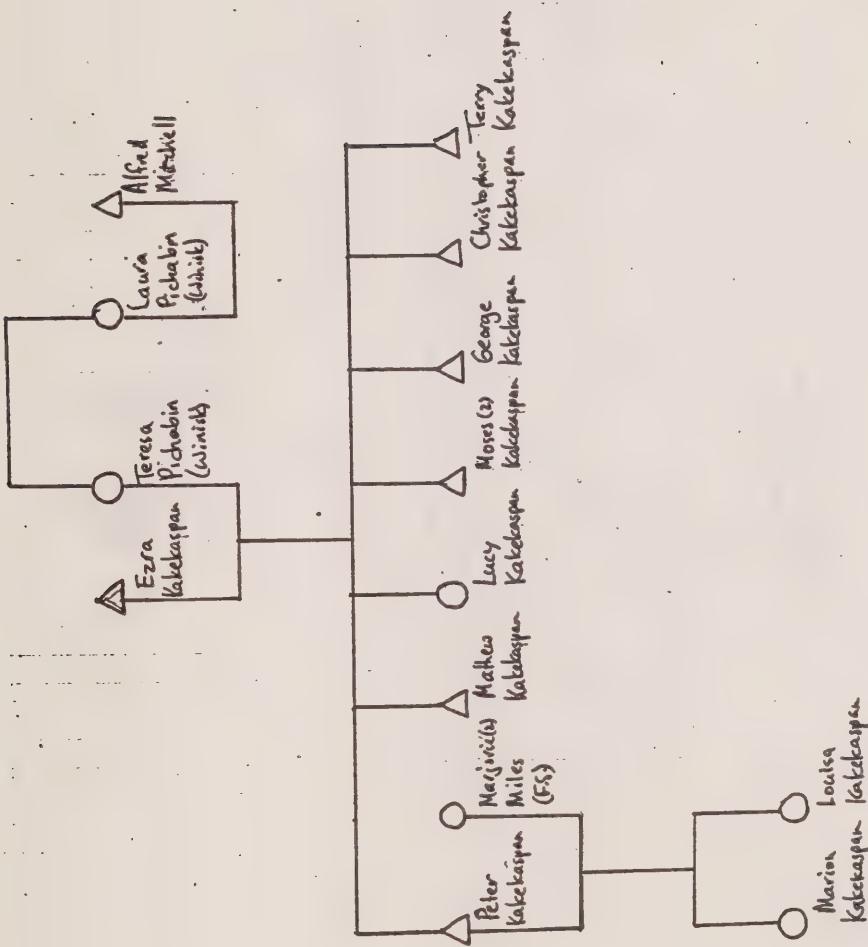
Kakeksp - Ft. Selera

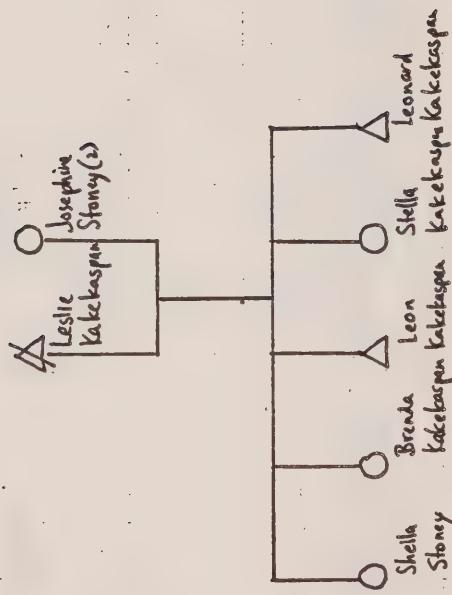
⑥ F.S Kakeksp pg 14

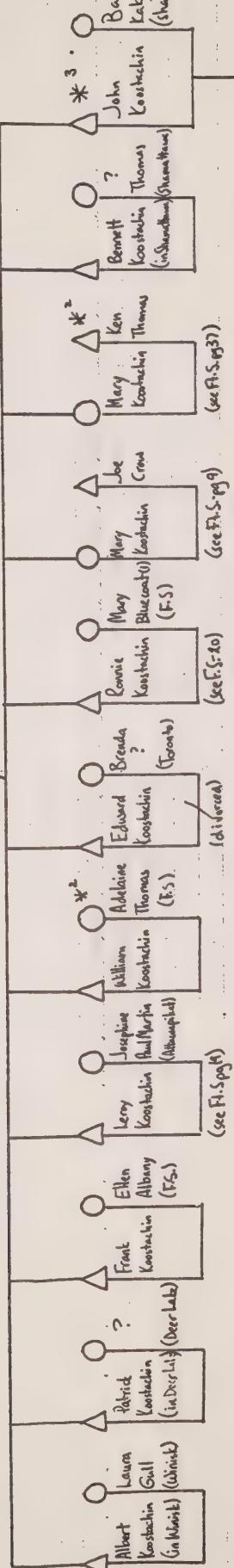
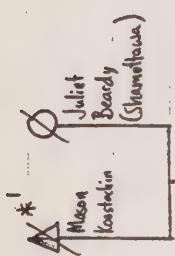


NOTE

\* sis of Albert Mitchell's wife  
\* Thelma is Isaac's daughter  
Josephine is Isaac's grand daughter  
Jeronimah's da.







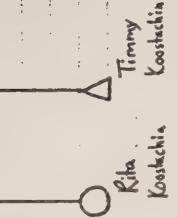
(see F.S. pg 3)

(see F.S. pg 9)

(see F.S. pg 10)

(see F.S. pg 14)

(diseased)



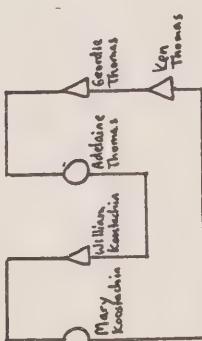
#### NOTES

\* deceased 1982, was a trapper

\*<sup>1</sup> Adeline - da. of Eries Thomas sis of Gerdie Thomas

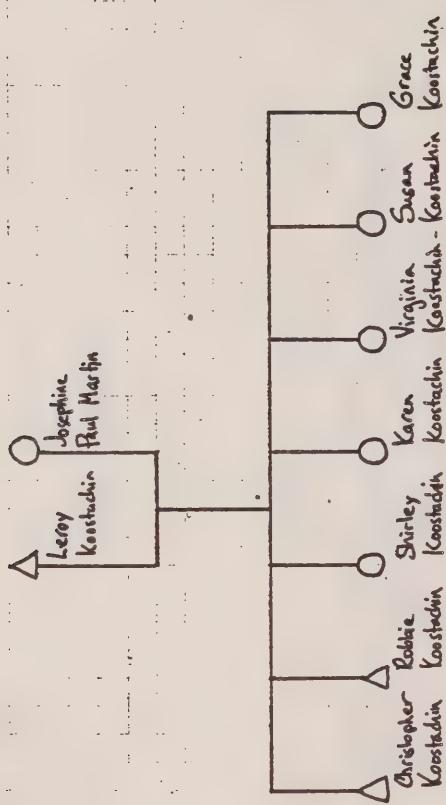
Ken - son of Gerdie Thomas

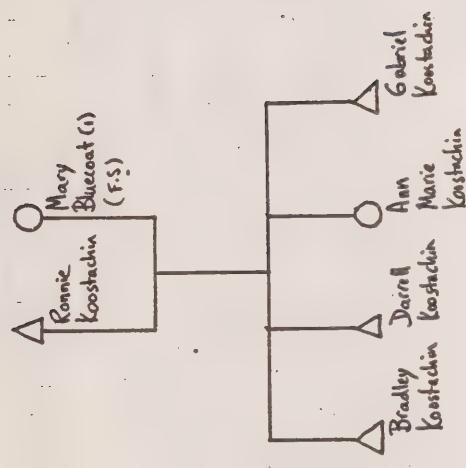
\*<sup>2</sup> between Shamothauwa and F.S. constantly

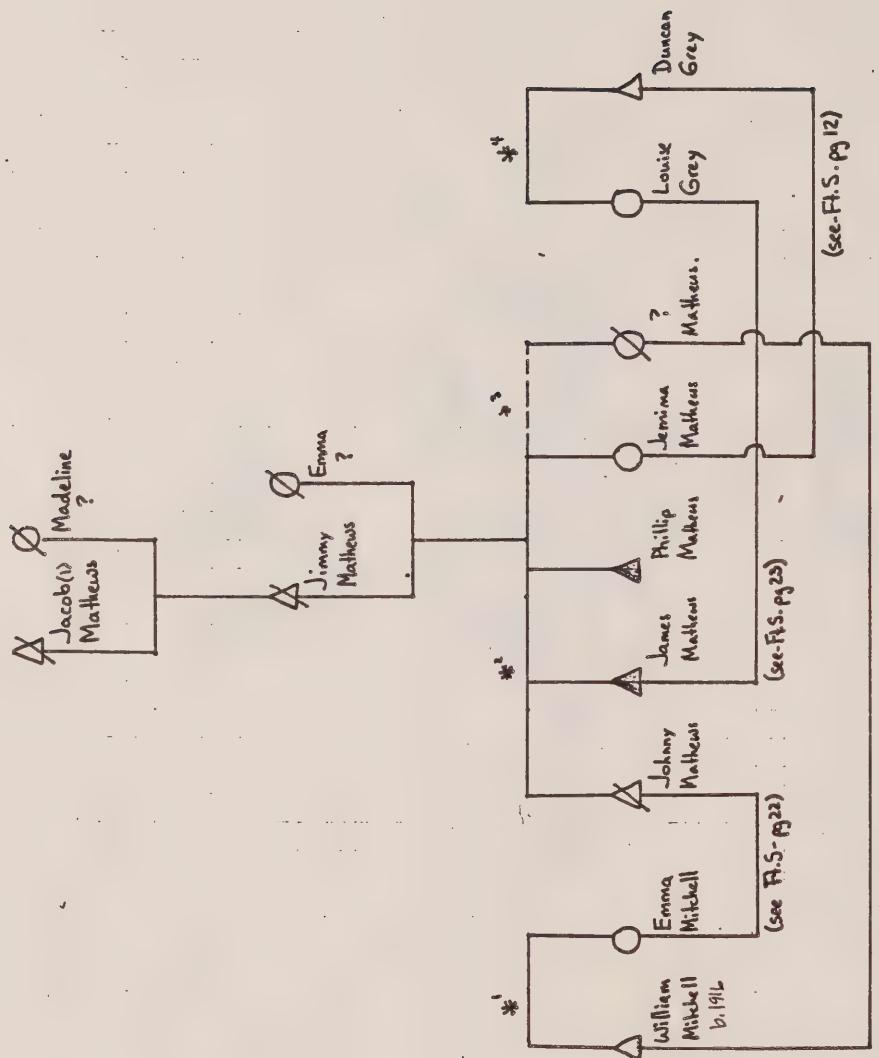


Koostachin - Ft Severn  
Leroy's Children

Koostachin - pg 19





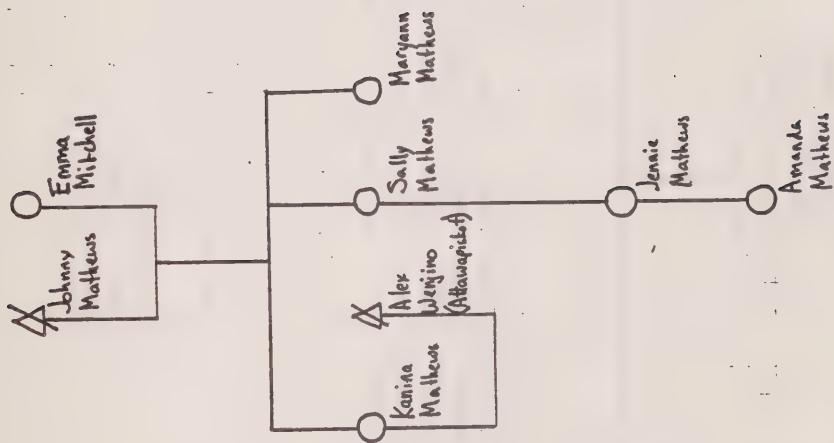


NOTES

\* bro sis  
William = ? Mathews  
Emma = Johnny M. (Jac)  
out of chronological order

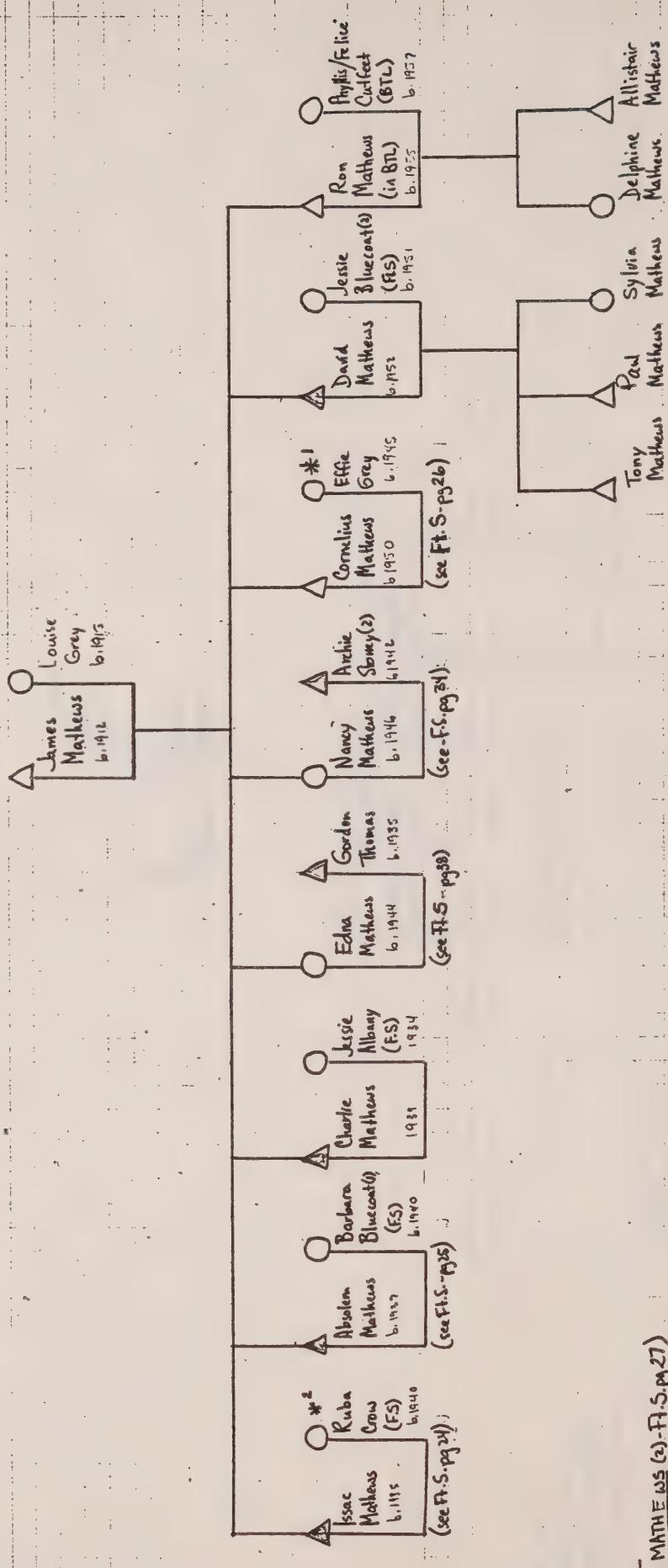
not on Mathew's rough sheet  
brother on Mitchell sheet

bro sis  
Louise = James  
Duncan = Demina



Mathews(i) - Ft. Severn  
James' children

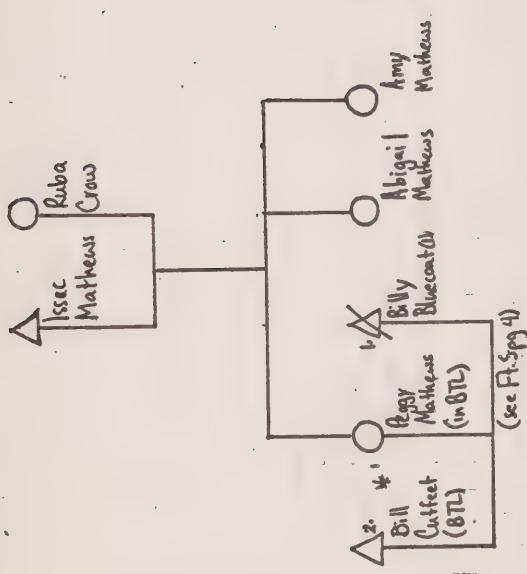
Ft.S. Mathews (i) pg 23



Notes.  
 \*1 see MATHEWSS (2) - Ft.S. pg 27  
 Ruba is the aunt of Effie Grey

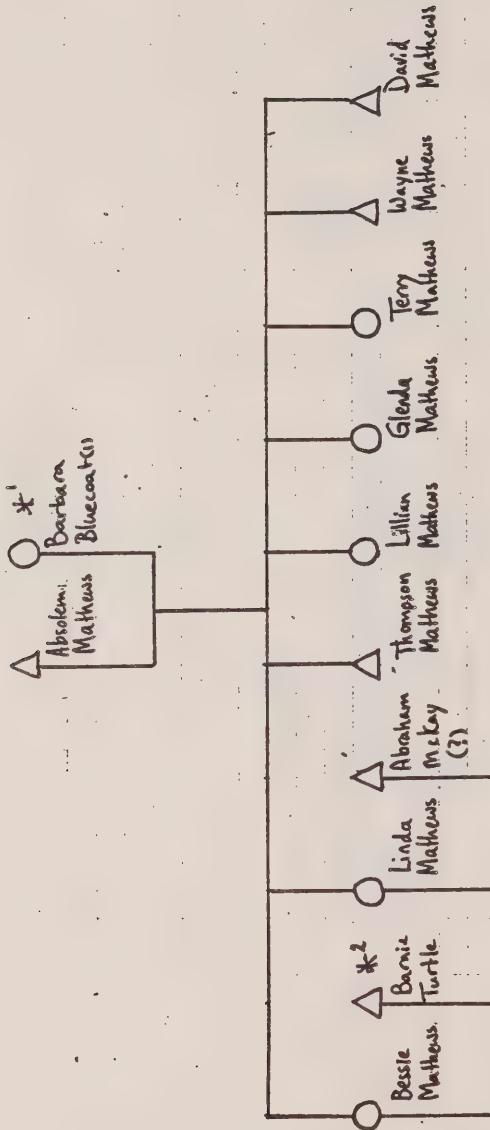
\*<sup>2</sup> see CROW-Ft.S. pg 9  
 Ruba is the aunt of Effie Grey

James Grandchildren - Isaac's children



(see Pt. 5 pg 4)

NOTES  
\* lives in BTL with Peggy and  
children  
not on BTL charts.

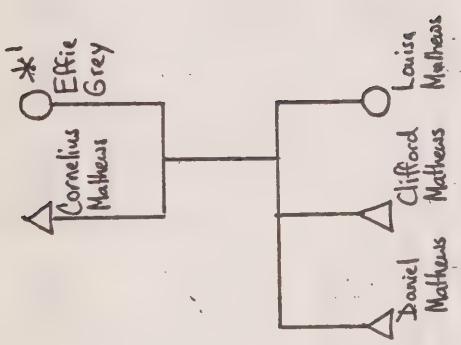


Notes

\*<sup>1</sup> daughter of Abel Bleecraft  
sister of Billy (Acc)=Peggy Mathews  
Peggy is Absolem's niece.

\*<sup>2</sup> bro of Rudy Turtle = Maria Taketupan  
Ft. Severn - pg 15.

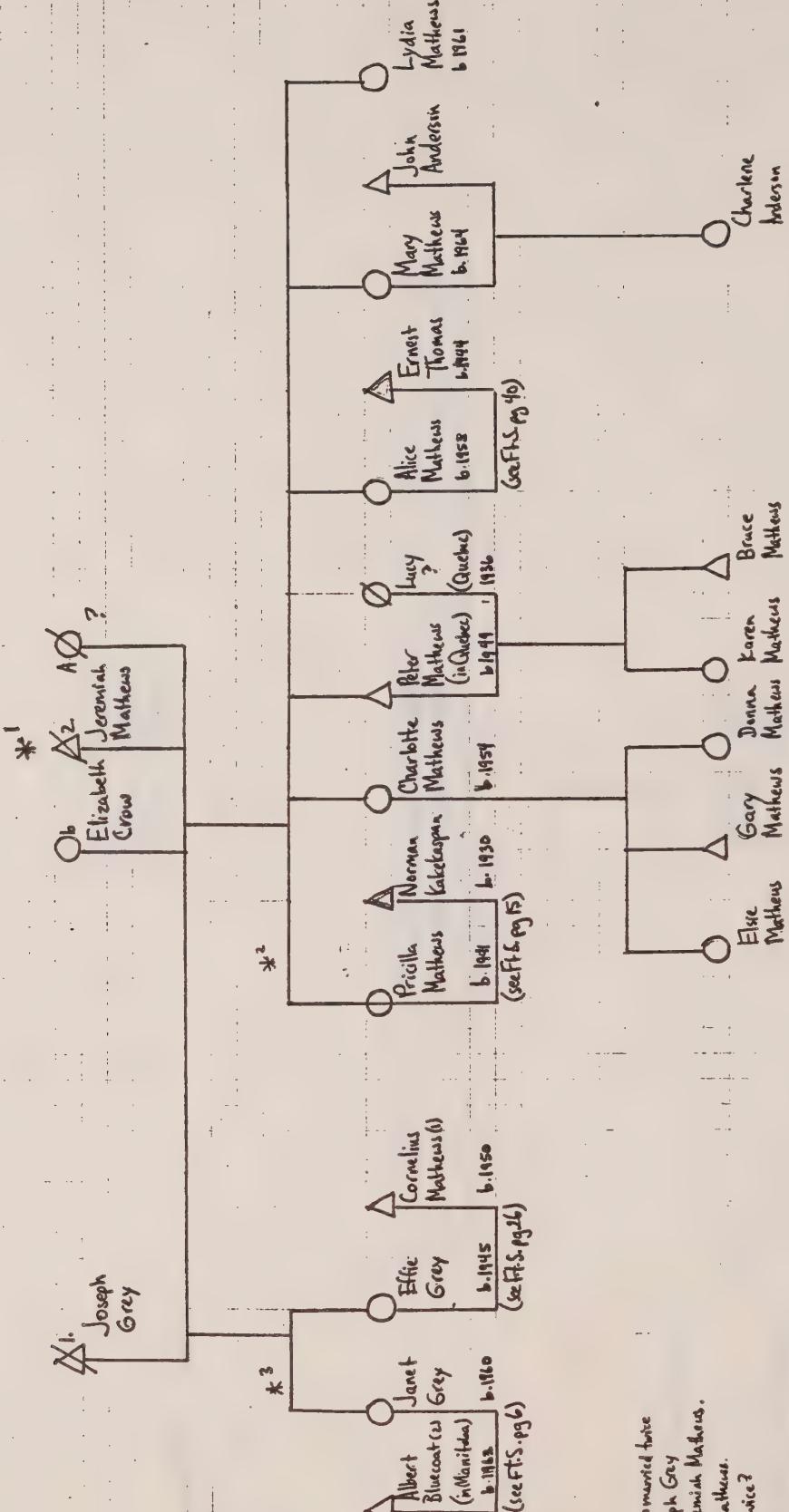
Matthews - Grandchildren - Cornelius' children



\* see MATTHEWS(2) pg 27 for Parents

Mathews(2) Ft Severn  
Jeremiah (b)

(8b) FS. Mathews (2)- pg2]

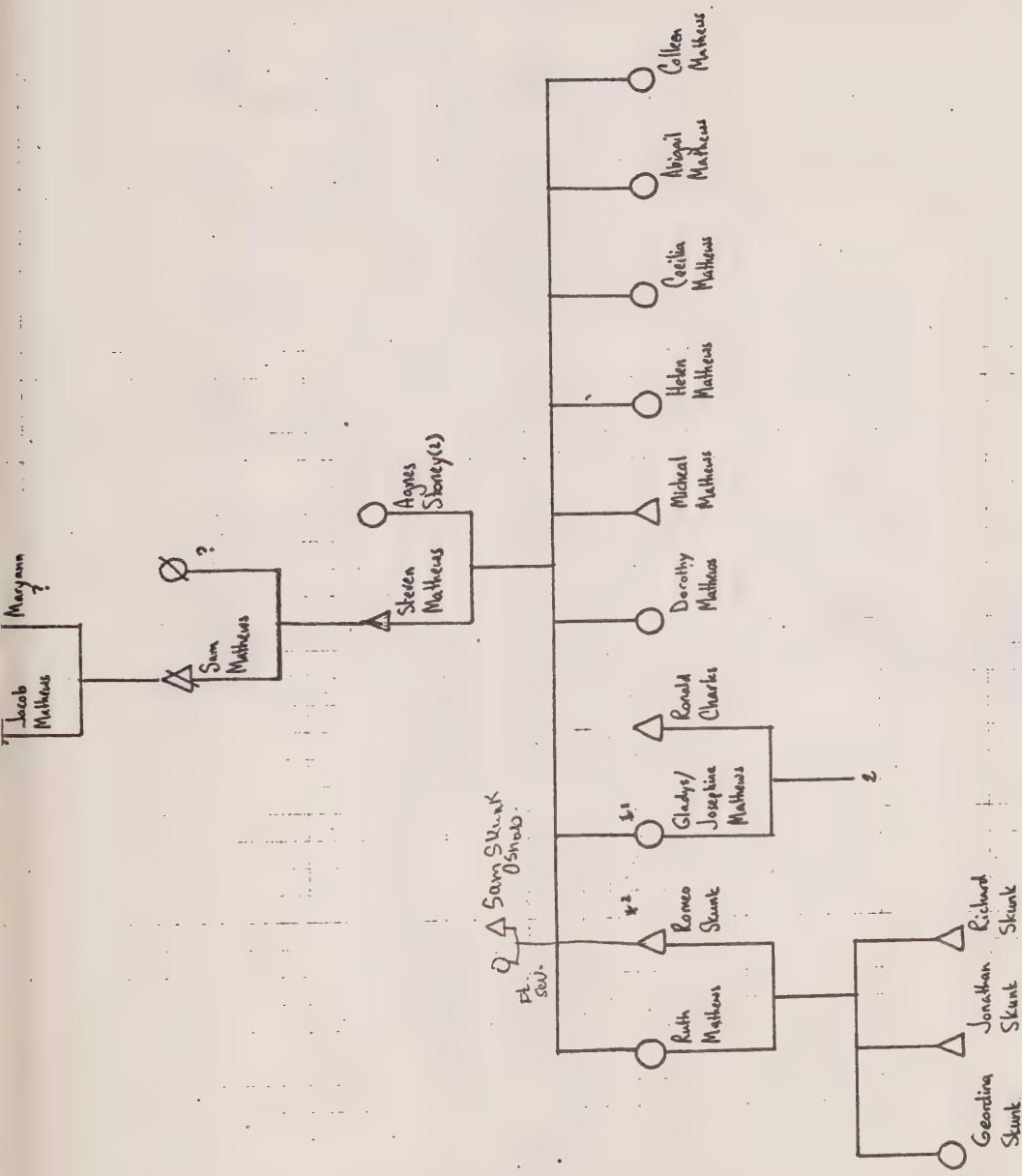


NOTES

\*<sup>1</sup> Elizabeth (assumed twice)  
1st-Joseph Grey  
2nd-Jeremiah Mathews.  
Jeremiah Mathews  
Married twice?

\*<sup>2</sup> not in order of age.

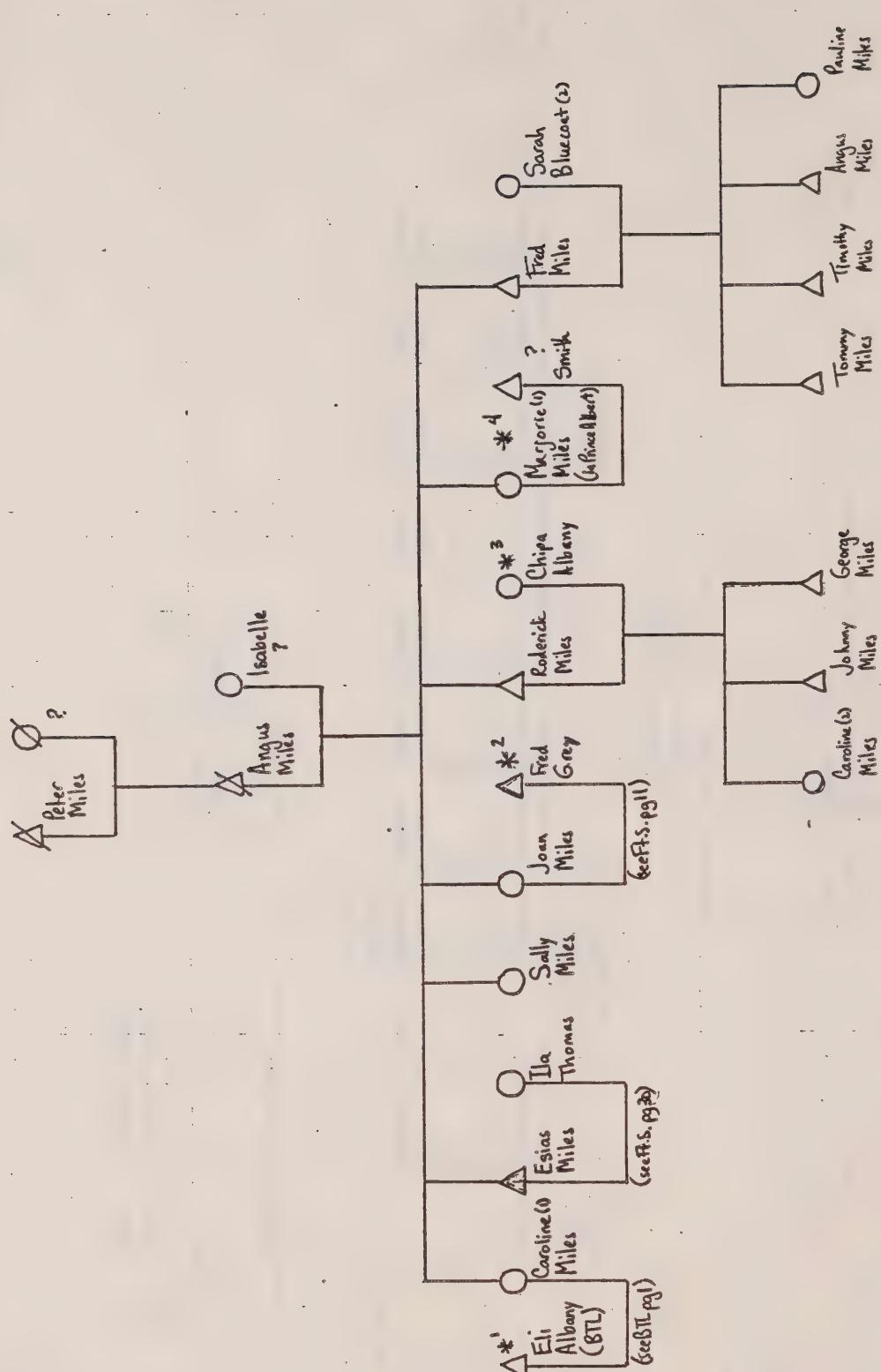
\*<sup>3</sup> please note dates of birth of both sets of children  
- appears to be contradictory.



Notes

\* Romeo Steak is the son  
of Sam Skunk who's  
wife comes from Ft. So.

<sup>#</sup> Gladys Malleson  
is called Josephine in  
the Grand List.

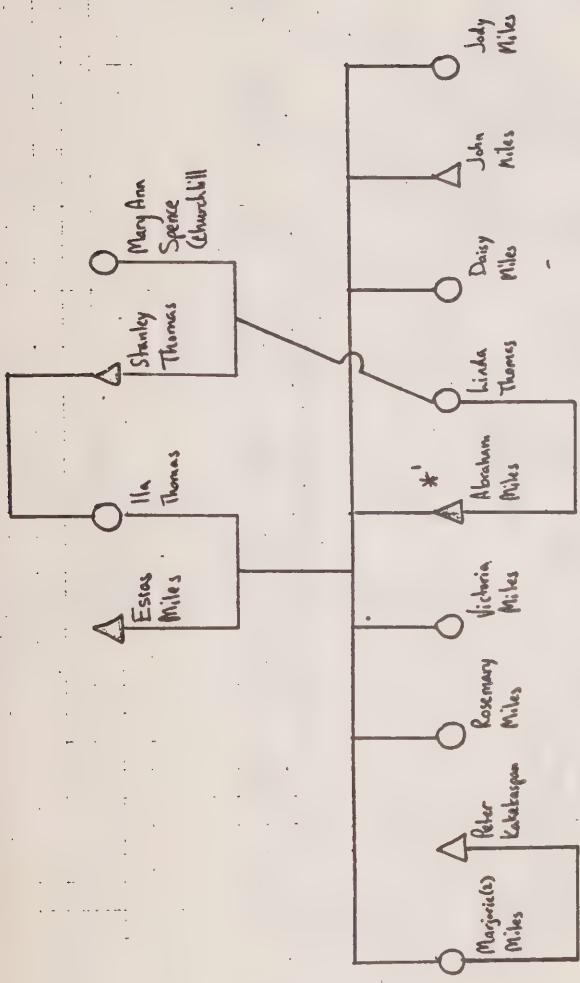


Notes

\* illegitimate son of  
Hud: n/Baylor Manager  
see BTL pg 1 - note

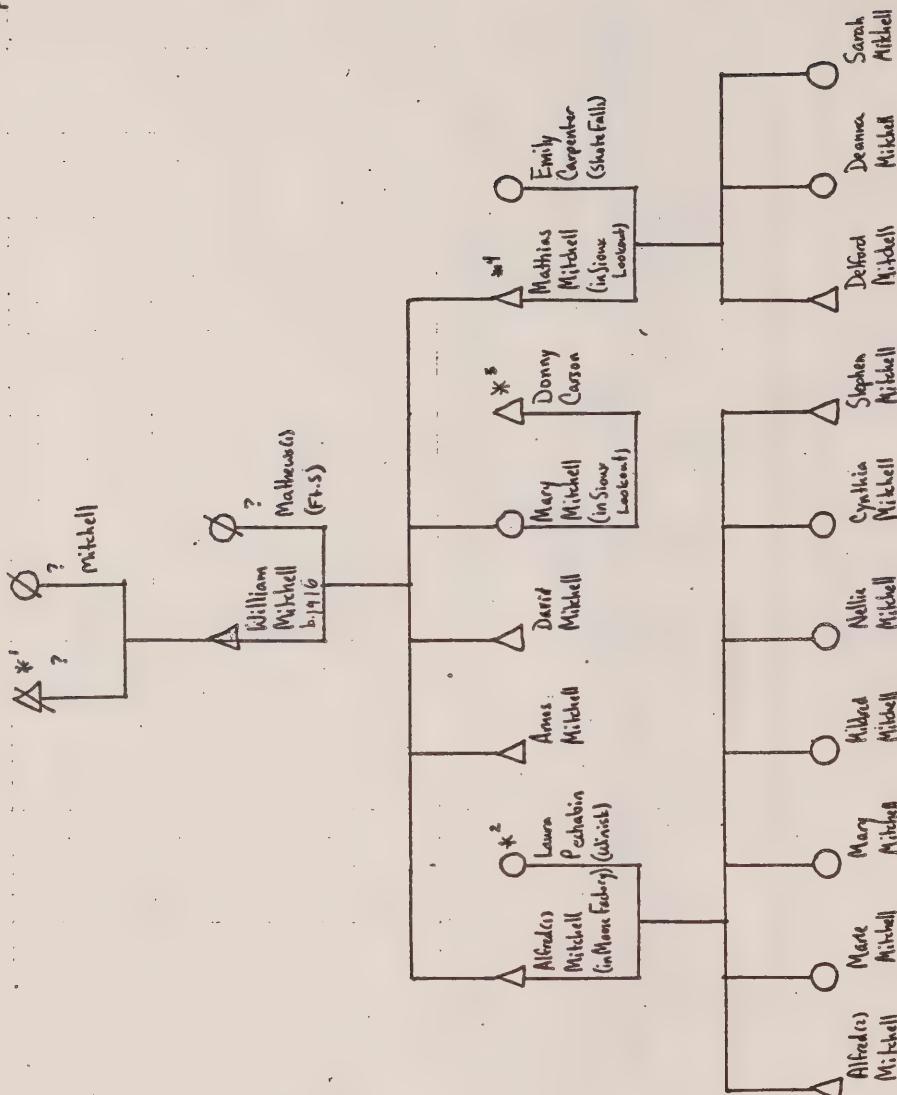
"conie" of Chipa Albany  
= Frederick Miles

\* Fred Gray - non-stakes  
John lost Indian status  
Chipa - da Niceronah  
"conie" of Eli.



Notes

\* first cousin marriage  
all 3 men are troopers.



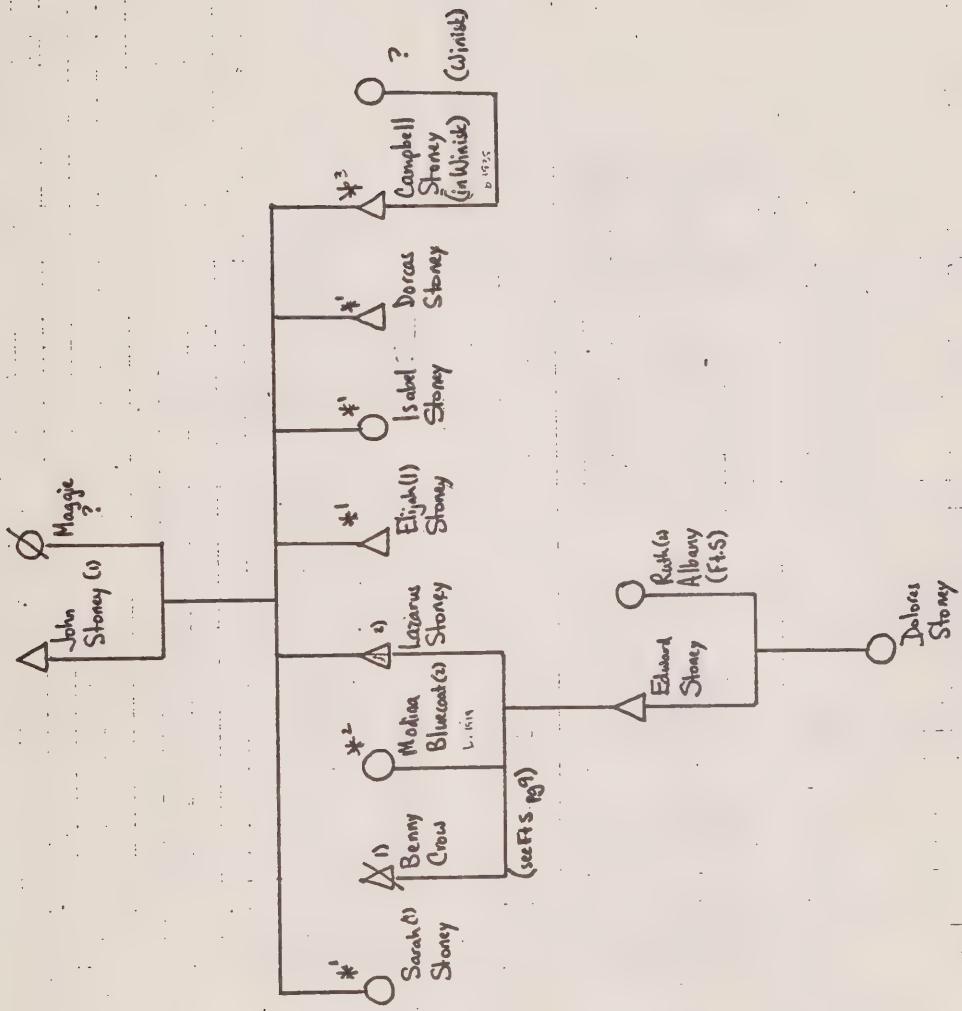
## Notes

\* from Scotland  
H. Bay Co. manager

\*<sup>2</sup> sis of Teresa Petabin  
= Ezra Lakatapang  
F.S. pg 14

\*<sup>3</sup> metis

\*<sup>4</sup> pilot



NOTES

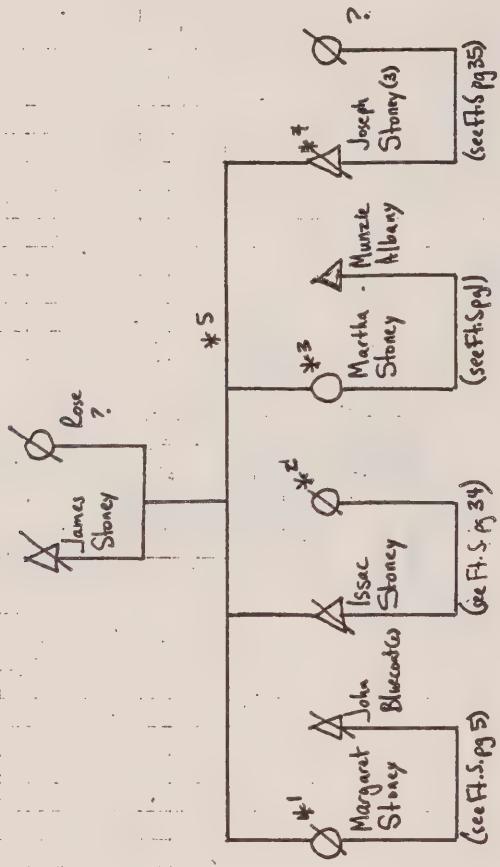
\*<sup>1</sup> additions from Treaty Annuity Paylists  
1930

\*<sup>2</sup> daughter of Margaret Stony (12) = John Bluecoat  
see F.S. pg 5

\*<sup>3</sup> many children

Stoney (2) Ft-S-  
James (1b)

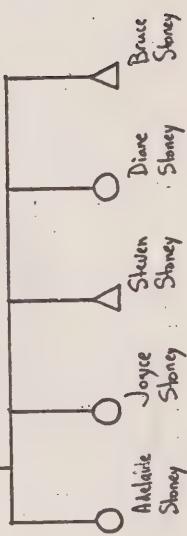
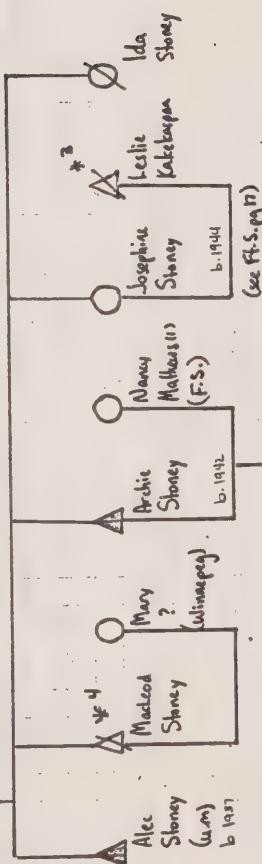
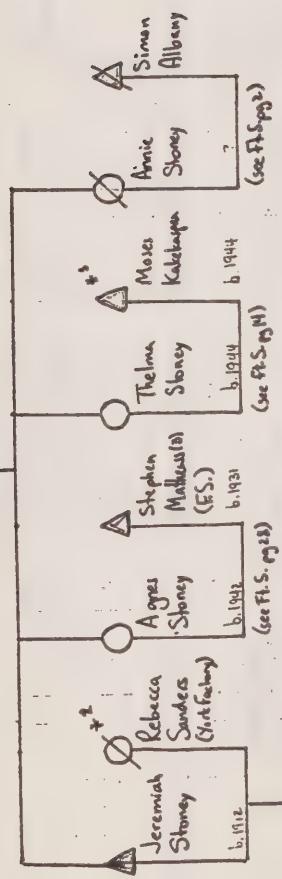
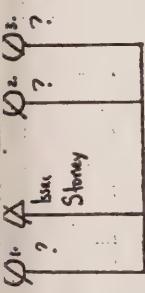
IIIb Ft.S-Stoney(2)-pg33



NOTES

- \*<sup>1</sup> From Blue coat (a) Chart  
also BTL Pg 11
- \*<sup>2</sup> 2 wives see pg 34-Ft.S.
- \*<sup>2</sup> from Albany Chart -Ft.S.
- \*<sup>1</sup> has separate sheet
- Stoney (3)
- \*<sup>5</sup> not in order of age

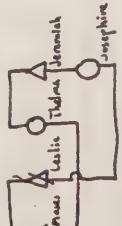
Isaac's children - Jeremiah's grandchildren



Notes:  
 \* not listed by age  
 Thelma, Nancy and Annie  
 added from other charts

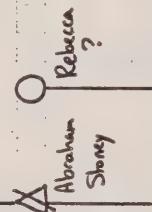
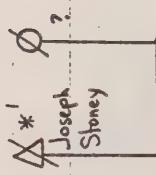
\* = Fr. Sam Sanders (Hart Factory)

\* Moses and Leslie are bro's.

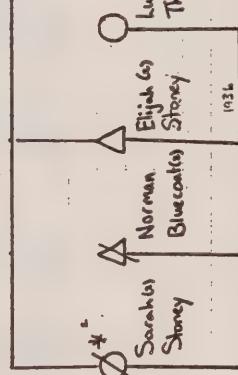


\* lived and married in Winnipeg.

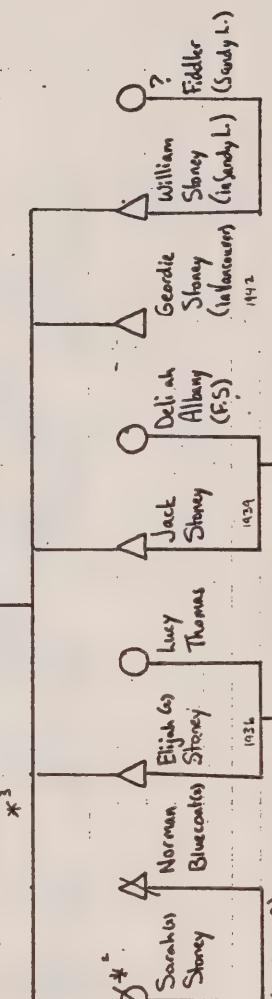
Stoney (3) - F.S. Seven  
Joseph (.)



\*3



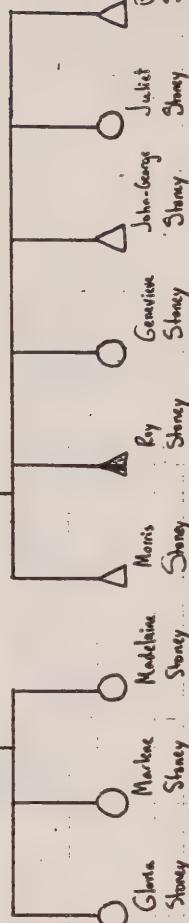
(see F.S. pg 8)



William Stoney (Isandy L.)  
Fiddler (Sandy L.)

1942

(see F.S. pg 8)

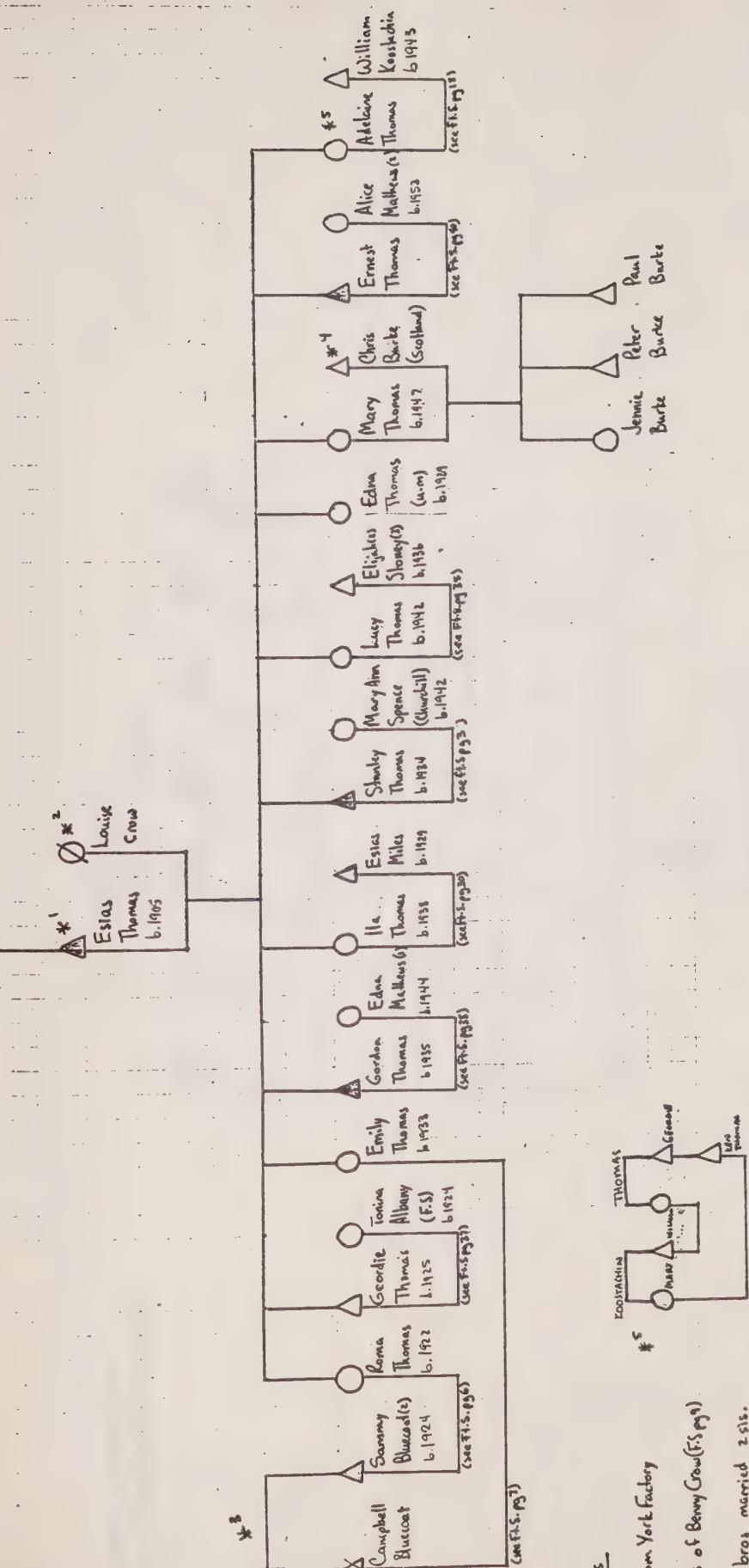


Notes  
W<sup>1</sup> Joseph appears to be Isaac Stoney's brother. however original chart were not clear  
one states they were brothers another states they were 3rd or 4th cousins

\*# BTL chart shows Sarah in the daughter of Abraham son of Joseph

\*# out of order.

Y? ?



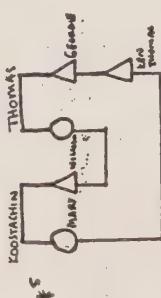
### Notes

\*<sup>1</sup> from York Factory

\*<sup>2</sup> sis of Benny Crow (F.S. pg 1)

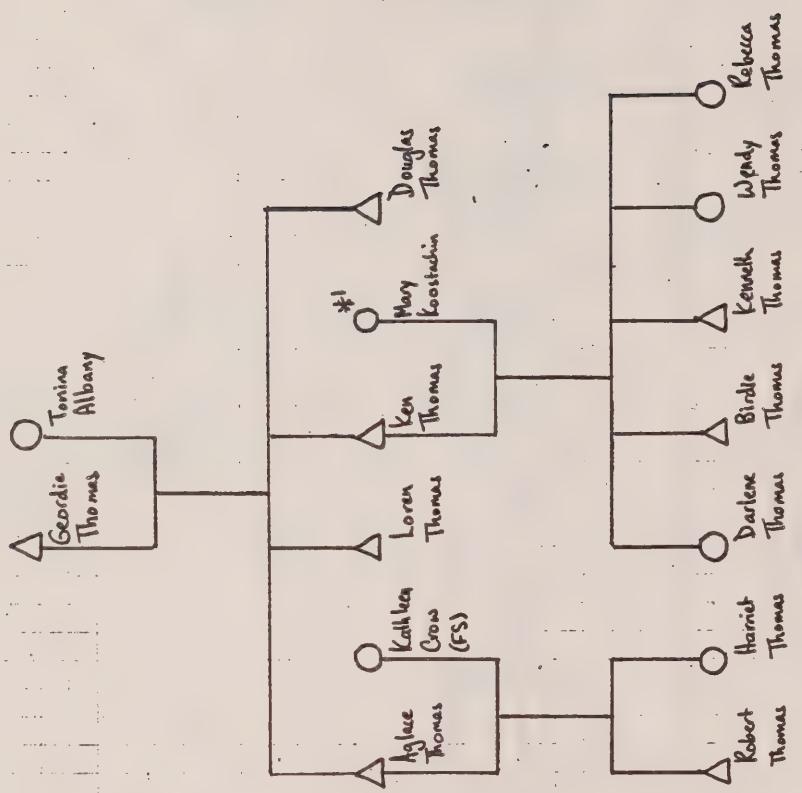
\*<sup>3</sup> 2 bros married 2 sis.  
(see F.S. pg 8)

\*<sup>4</sup> from Six Hand - store manager

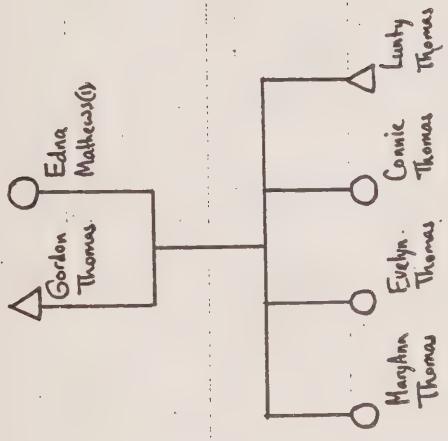


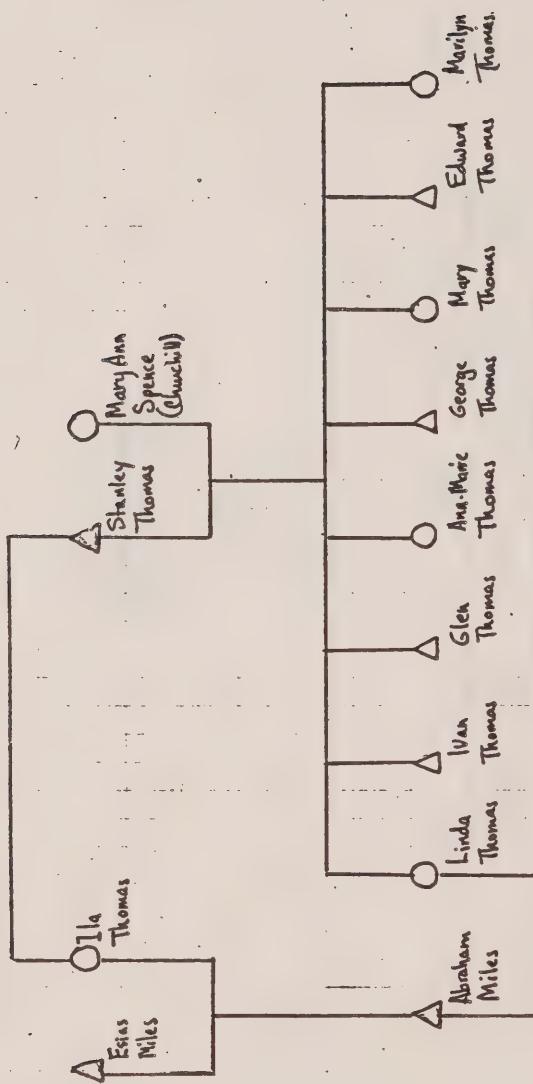
Thomas - Ft Salem  
Geordie's children

F.J Thomas pg 37

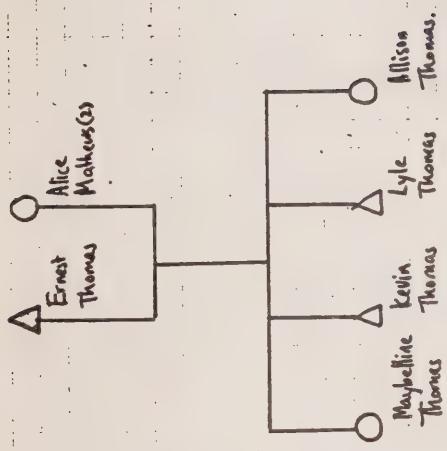


\*  
sis - of William Koostachin + Adeline Thomas  
Adeline is Ken Thomas aunt.





Ernest's children







# Kingfisher Lake Band

KINGFISHER LAKE  
ONTARIO P0V 1Z0

Rec'd June 14/83



Presentation To

Royal Commission on Northern Environment

June 14, 1983

in

Kingfisher Lake, Ontario

## Kingfisher Lake Band Presentation

### Contents and Summary

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2. Opening Remarks - Introduction Community Profile - Mary Lou Frog  
Elders' Presentation re: First Treaty in Big Trout Lake  
Swanson Mekanak
3. Chiefs Presentation
4. Industrial Large Scale Developments  
Reed & Mining - John G. Sainnawap  
Polar Gas, Damming and Diversions of Rivers, West Patricia Land  
Use Plan - James Mamakwa
5. Background - Economic Development,  
Objectives & Purposes - Kingfisher Lake Socio-Economic  
Development Corporation  
  
Objectives - Hunting and Fishing Camps, Aircraft, Bakery,  
- Noah Winter

Recommendations

## COMMUNITY PROFILE

### Introduction

The community of Kingfisher Lake is located in Northwestern Ontario at latitude 53N00, longitude 89W49, 176 kilometres north of Pickle Lake and 90 kilometres south of Big Trout Lake. The people moved to this location in 1965 from Big Beaver House because Kingfisher Lake was deeper and cleaner, and timber is more readily available in the surrounding area.

The community is located on an Indian Reserve and has had Official Band Status since April 1976. The community population is 260. Of this figure 254 persons are Band Members and 6 are non - Band members.

The provincial Member of Parliament is Jack Stokes. The federal Member of Parliament is John Reid.

### Transportation

The community is accessible through the airstrip in Big Trout Lake and the airstrip in Pickle Lake. Small planes can be chartered which can land on either water or ice. There are no roads or scheduled aircraft service for the community. A helicopter service usually maintains postal deliveries during the break-up and freeze-up periods. Austin Airways provides bi-weekly mail and freight service.

### Communications

- one Post Office
- a Bell Canada microwave system

- H.F. radio provided by Wa-Wa-Ta
- C.B. radios owned by individuals
- a radio station owned and operated by the community members
- satellite television service operated by the Kingfisher Lake Band

The main language spoken is Cree, the second language is English. Fluent interpreters are available in the community.

#### Medical Services

There are two Community Health Representatives which are the most readily available medical service here. They are trained in basic First Aid and are qualified to give prescription drugs. Registered nurses from the Round Lake Nursing Station visit the community approximately every 2 or 3 weeks. Air ambulance service is available.

#### Religion

There is one Anglican Church, presided over by a local minister.

#### Education

There is one D.I.A.N.D. Elementary Day School. The school has four classrooms and five teachers, two of whom are local permanent residents. The enrollment at the school at present is 76.

#### Recreation

The Kingfisher Lake Band organizes recreational activities

and carnivals. Other popular recreational activities are skating, swimming, softball, ski-dooing, boating, canoeing, camping, soccer and reading. There are camping areas, ski-doo trails, a softball diamond, a library, a swimming area for children and a skating rink for hockey teams.

#### Policing

The Ontario Provincial Police have a Northern Air Patrol which will come to the community at the community's request.

#### Fire Protection

There is a local fire committee that looks after fire prevention and safety, and organizes volunteer firefighting.

Firefighting equipment consists of eight water pumps and 10,000 feet of fire hose. A firehall will be built this summer. It will be used to store firefighting equipment, ready for use. In addition each building is equipped with an ABC fire extinguisher.

#### Store

There are two stores in the community. The major one is the Omahamo Store, run by the Kingfisher Lake Socio-Economic Development Corporation, was established in 1980, which was the most important step taken towards increasing our independence and control over our own affairs. It has been self-supporting, while creating employment and providing social and morale benefits for the community as a whole. The other is a confectionery store.

MR. COMMISSIONER, I'm happy to have you come to my community. I, Chief Simon Sakakeep, would like to speak for my people;

The people of Nishnawbe-Aski don't want to lose their ways of life. For over hundred years, Indian people had never seen white man. The people of Nishnawbe-Aski don't want any interference with their hunting rights from a white man.

If there's a mine started in Northern Ontario we are the ones who would suffer in our hunting/trapping area.

Same thing applies with Polar Gas Pipeline. This development would interfere with our ways of life. All the land resources, including wildlife would be destroyed.

Another thing is a proposed Reed Paper Mill development. There will be no wildlife if Reed Paper clears the area. It will drastically have an affect on a native ways of lifestyle and culture.

All the concerns of the people should be put in the Royal Commissioner's report.

1. Reed Paper

\*A proposal to cut 19,000 square miles of timber area.\*

I would like to express my thoughts about how such a development will affect the native people, for those of us living in the northern area. We have lived here for a long time. It is not known how long the natives have been here, yet even today we still live on this land. To this day there is still a good abundance of different resources. The wildlife and fish are plentiful, and as yet unpolluted. These different resources were meant for our well-being. We are still very grateful and still remember that this is what our Great Manitou provided for us and for our children in the future. We do not want our land to be destroyed yet, for in its present state it supplies us with our livelihood, just as it always has in the past. Therefore, if thousands of square miles of trees are cut down, we will lose everything. Not only the trees, but the wildlife and fish will also be greatly affected. Their diet will be disrupted and their survival threatened. Therefore, where the planning hasn't been done, we do not want the trees to be cut down. We want our land to remain as our Manitou created it. We know that His creations and His promises never fail.

Once this Reed Project starts there will be many white people who will come to live here on this land. There's no doubt that both road and highway construction would also occur. Our lakes and rivers would be polluted. There are several native communities that are located in the proposed

cutting area. And this threatens the traditional means of our livelihood and offers no benefits to our communities.

## 2. Mining

\*The consideration and/or planning of mining exploration.\*

If there's any mining exploration being planned for this area, we recommend that the community of Kingfisher Lake be consulted. We expect to get involved in any such planning. The result of this would be that together we could find solutions for water pollution, in order to avoid any contamination. We positively don't want any wastes dumped into the lakes or rivers. Such pollution would soon reach the people of Kingfisher Lake, for it would have an easy access to the lake. If there's a mine development nearby, it will bring a lot of problems for the people up here. Also, the construction of a hydro generating facility in order to power the mine would likely involve damming the river; this is something we do not want to occur. Instead we suggest that other ways be found of running such a mine, other sources of hydro. But again, I stress that our cultural lifestyle will be changed if there's a mine development nearby, even though native people may benefit from employment there. We know that the mine will not operate forever, and after it closed there would no longer be any employment there. That is why we are concerned, for eventually the mine would close anyways, and in the meantime nature would have been destroyed for nothing better than a temporary profit-making venture. Therefore, we recommend that a careful study be made of the environmental

impacts a mine would have.

There would be social impacts for the community, side-effects of such a venture, that also need to be considered. The construction of an all-weather road would create problems simply because then we'd be less isolated. The isolation is what preserves our native livelihood. There would be other associated problems, and also the negative impact of alcohol in a mining town.

### 3. Polar Gas

I want to speak of a major industrial development proposed to occur near our area. This is the Polar Gas Pipeline, which would go through our land. The issue here is the possible risk involved. And the risk primarily involves us, the native people, and our traditional way of life and livelihood. The risks are evident. First, there is the possibility of gas seepage along the pipeline and especially at the compression stations. Where there is seepage, no matter how little, the threat of fire becomes great. Seepage would pollute our drinking water, leading to adverse affects on fish and wildlife. There would also be the construction of a road, and perhaps development, nearby the pipeline, raising again the possibilities of pollution and other negative influences. In all likelihood, if a fire ever occurred, the means of our livelihood would be destroyed for generations. Is it fair to expect us to risk so much?

### 4. The Damming and Diversion of Rivers

The development of hydro generating capacity by the dam-

ming and diversion of rivers is another area of concern for us. It would affect the native people in ways difficult to predict. Several things are evident however. With the uprooting of trees and vegetation in a newly diverted river, and especially with the presence of bark resin in the water, all of this would have an adverse affect on the fish and wildlife that are sustained by the river. The rivers feed into lakes, spreading the pollution. Fish and wildlife would move away to unpolluted areas elsewhere. We should be careful of how we use our land because our future generations might be left with nothing, the land empty or polluted, and with that our unique way of life would, itself, be uprooted. Whatever threatens the fishing, hunting and trapping activity of our people threatens the native people themselves. Fishing, hunting and trapping are more than just sources of food for us. We feel that we should continually use meat from wildlife as the bulk of our diet, for the native people have a blood of hunting and trapping for survival. It's very hard to communicate this in words.

West Patricia Land Use Plan

This brings me to the proposed West Patricia Land Use Plan. The specific area concerned is zone 50, the Pipestone River Waterway Park. The Ministry of Natural Resources, infact no one, bothered to inform us or consult with us on this planning activity! We feel the people of Kingfisher Lake should have been consulted. We cannot just say "yes" when the government eventually gets around to negotiating with us. This poses an attempt to block our use of our land, our hunting and trapping grounds. Our second reserve is also adjacent to the proposed area. Yet the government promised us this land. We picked this piece of land and the river for our next generation and generations beyond. We cherished it most because this is where we hunt, trap and fiah for our needs. We use this area extensively all year round. We, the native people tend not to destroy our lands resources. Our only desire is to seek assurance that it will not be allowed to be destroyed by others. We are asking the Government of Ontario to terminate this planning activity where it affects our land and livelihood.

## Background - Economic Development

The idea of getting involved in economic development or small business initiated with the community's desire to own and control self-supporting businesses or services which would create more self-reliance and employment for the community members. The first step towards this objective was taken when the Chief and Band Council made the circulation of in-coming monies within the community their economic development priority number one. A critical examination of the Band situation was made with regard to the economic conditions and flow of incoming monies and the end results. The study which was done by local people revealed that the Hudson's Bay Company was taking out 82% of the funds that came into the community. Therefore, all the government transfer payments, the trappers' sale of furs and other such activity resulted only in feeding the mouths of the recipients. The net profits from the Bay store operation were being funnelled out of the community and not used for the benefit of the local people. So it was decided that the community buy the Bay operation. Although the Bay was reluctant to divest itself of this profitable operation, the final result was that the Bay was put in a position where they had to sell. Ever since Kingfisher Lake has enjoyed the benefits of owning such an operation. The benefits now are as follows:

- (1) The expertise and experience derived from running such an operation.
- (2) The morale benefits to the community as a whole.
- (3) An increase in cohesiveness as a social unit resulting from having such a common objective.
- (4) The control of the net profits.

One of the examples of positive benefits resulting from the venture is that the community was able to construct the first laundromat in this area. \$57,000.00 of the store profits was

....2/

used and the balance from LEAP. This has greatly improved the community's situation as a whole in terms of hygiene. It has reduced the women's daily workload and stress.

The community has sought to gain as high a degree of control as possible over its own affairs and has pursued an independent course of development aimed at maximizing self-reliance and the local distribution of benefits from economic activity. It has proceeded cautiously to develop projects that can bring long-term improvements in both material conditions and morale. Step-by-step planning has been carried out through co-operation between the people and the Band Council to ensure that priorities are shared and that community members are able to participate in the development process. The community organization is similar to a family in which the community's needs are considered and all aspects of peoples' lives are taken into account; not just economic aspects but social and cultural as well. In other words, the Band has taken a comprehensive and extremely careful approach to its development as a human community. This process should not be idealized. It has involved a concrete application of principles arrived at through careful examination of the Band's situation.

In April 1976, the community received reserve status. As the Band administered more government funds, it took only a short period of time before they definitely realized that they could not depend on the Dept. of Indian Affairs and other government agencies because of the way programs were structured. They wanted to plan their future themselves with as little outside involvement as possible. They learned about self-organizing and other kinds of skills that would be required to build up their community relying on their human resources to the fullest possible extent. In other words they learned the basics for an approach to economic development appropriate to their own circumstances and aspirations.

To initiate projects such as the store, Kingfisher Lake Socio-

...2/

Economic Development Corporation, a non-profit organization, was started in April 1980 with objectives very broad in scope. The Board of Directors of this new corporation consisted of nine Band members which have a good cross-section of abilities and experience. The objectives of the Letters Patent parallels the Band Council's and community's aspirations. Although the Band Council and the new corporation are different entities, they work cohesively with each other. This co-operation within the community, plus the fact that there are no religious factions or other type of factions with the community, makes these types of things possible in Kingfisher Lake.

## Objectives and Purposes

### Kingfisher Lake Socio-Economic Development Corporation

I shall now outline briefly of the corporation's objectives and purposes for its existance which was briefly mentioned before. The businesses that now exist in Kingfisher Lake exist for the well-being of the community. This is a continuing objective, namely, to develop projects which will contribute to the economic base of the Band, while providing employment for Band members. Anticipated areas of potential interest for the community to develop include hunting and fishing cottages, buying an aircraft to aide in its operations and such others as the community considers necessary or desirable. The principal criteria for the adoption of future projects by the corporation are whether such a proposed project would enhance the social, cultural educational, recreational, or religious life of the community while supplying a service deemed necessary or desirable. To realize such objectives, buildings and any other facilities necessary to run the aforesaid projects will be constructed or otherwise acquired. The organization does not exist for purpose of gain for its members, and any profits or other accretions to the organization shall be used in promoting its objectives.

## OBJECTIVES

### Hunting and Fishing Camps

One of the immediate plans in terms of economic development is setting up fishing and hunting camps. Four or five lakes or areas for now have been marked for these operations. These lakes have been marked on a prepared map. The exact type of ownership of these operations is not determined yet. But will have the objective of gaining employment for the local band members by utilizing the natural resources.

### Aircraft

The other objective of the community through the Kingfisher Lake Socio-Economic Development Corporation is to buy an aircraft. The exact nature of this plan cannot be released yet. However, this aircraft will assist in the community's operations and activities. Pilot training has been commenced of one young local person.

### Bakery

The other immediate objective is to start a bakery perhaps in conjunction with the Band Coffeeshop. This would provide fresh bakery bread and pastries to the community which provide one extra job.

### Recommendations

We, the native people of Kingfisher Lake recommend to the Royal Commission that the surrounding area be used solely for the inhabitants of the area which are the members of Kingfisher Lake Band. This will act as a resource base to continue our native livelihood as much as possible; this land and its natural resources will act as a base for some of our economic development aspirations; this also will act as a base to continue and preserve our unique cultural heritage which we now enjoy. In order to make this possible we need to control and manage the said land with no interference from outside government regulations. What we ask, Mr. Commissioner is nothing new. We ask only to leave the land to us as it has been for the last hundreds of years.

2054







